

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO.2 FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 718
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Job Creation and Economic Development May 5, 2008 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 718 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

3497L.09C

AN ACT

To repeal sections 32.105, 67.1501, 67.1545, 135.155, 135.535, 135.562, 135.967, 137.115, 137.1018, 144.030, 155.010, 253.550, 447.708, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, and to enact in lieu thereof twenty-one new sections relating to tax incentives for business development, with an emergency clause for a certain section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 32.105, 67.1501, 67.1545, 135.155, 135.535, 135.562, 135.967, 137.115, 137.1018, 144.030, 155.010, 253.550, 447.708, 620.495, 620.1039, 620.1878, and 620.1881, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 32.105, 67.1501, 67.1545, 135.155, 135.535, 135.562, 135.682, 135.967, 137.115, 137.1018, 144.030, 144.057, 155.010, 253.550, 348.273, 348.274, 447.708, 620.495, 620.1039, 620.1878, and 620.1881, to read as follows:

32.105. As used in sections 32.100 to 32.125, the following terms mean:

- (1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;
- (2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 the occupant no greater than thirty percent of the maximum eligible household income for the
8 affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be
9 considered the amount of the gross monthly mortgage payment, including casualty insurance,
10 mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be
11 considered the amount of the gross rent. The cost to the occupant shall include the cost of any
12 utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum
13 cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the
14 commission. Persons or families are eligible occupants of affordable housing units if the
15 household combined, adjusted gross income as defined by the commission is equal to or less
16 than the following percentages of the median family income for the geographic area in which
17 the residential unit is located, or the median family income for the state of Missouri, whichever
18 is larger; ("geographic area" means the metropolitan area or county designated as an area by the
19 federal Department of Housing and Urban Development under Section 8 of the United States
20 Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

21	Percent of State or
22	Geographic Area Family
23	Median Income
24	Size of Household
25	One Person
26	5%
27	Two Persons
28	40%
29	Three Persons
30	45%
31	Four Persons
32	50%
33	Five Persons
34	54%
35	Six Persons
36	58%
37	Seven Persons
38	62%
39	Eight Persons
40	66%

32 (3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an
33 S corporation doing business in the state of Missouri and subject to the state income tax imposed
34 by the provisions of chapter 143, RSMo, including any charitable organization that is exempt
35 from federal income tax and whose Missouri unrelated business taxable income, if any, would
36 be subject to the state income tax imposed under such chapter, or a corporation subject to the
37 annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an
38 insurance company paying an annual tax on its gross premium receipts in this state, or other
39 financial institution paying taxes to the state of Missouri or any political subdivision of this state
40 pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual
41 tax on its gross receipts in this state;

42 (4) "Commission", the Missouri housing development commission;

43 (5) "Community services", any type of counseling and advice, emergency assistance or
44 medical care furnished to individuals or groups in the state of Missouri or transportation services
45 at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

46 (6) "Crime prevention", any activity which aids in the reduction of crime in the state of
47 Missouri;

48 (7) "Defense industry contractor", a person, corporation or other entity which will be or
49 has been negatively impacted as a result of its status as a prime contractor of the Department of
50 Defense or as a second or third tier contractor. A "second tier contractor" means a person,
51 corporation or other entity which contracts to perform manufacturing, maintenance or repair
52 services for a prime contractor of the Department of Defense, and a "third tier contractor" means
53 a person, corporation or other entity which contracts with a person, corporation or other entity
54 which contracts with a prime contractor of the Department of Defense;

55 (8) "Doing business", among other methods of doing business in the state of Missouri,
56 a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in
57 the state of Missouri if such firm or S corporation, as the case may be, is doing business in the
58 state of Missouri;

59 (9) "Economic development", the acquisition, renovation, improvement, or the
60 furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the
61 state when such acquisition, renovation, improvement, or the furnishing or equipping of the
62 business development projects will result in the creation or retention of jobs within the state; or,
63 until June 30, 1996, a defense conversion pilot project located in a standard metropolitan
64 statistical area which contains a city with a population of at least three hundred fifty thousand
65 inhabitants, which will assist Missouri-based defense industry contractors in their conversion
66 from predominately defense-related contracting to nondefense-oriented manufacturing. Only
67 neighborhood organizations, as defined in subdivision (13) of this section, may apply to conduct
68 economic development projects. Prior to the approval of an economic development project, the
69 neighborhood organization shall enter into a contractual agreement with the department of
70 economic development. Credits approved for economic development projects may not exceed
71 [four] ~~six~~ million dollars from within any one fiscal year's allocation[, except that for fiscal years
72 2005, 2006, and 2007 credits approved for economic development projects shall not exceed six
73 million dollars]. Neighborhood assistance program tax credits for economic development
74 projects and affordable housing assistance as defined in section 32.111 may be transferred, sold
75 or assigned by a notarized endorsement thereof naming the transferee;

76 (10) "Education", any type of scholastic instruction or scholarship assistance to an
77 individual who resides in the state of Missouri that enables the individual to prepare himself or
78 herself for better opportunities or community awareness activities rendered by a statewide
79 organization established for the purpose of archeological education and preservation;

80 (11) "Homeless assistance pilot project", the program established pursuant to section
81 32.117;

82 (12) "Job training", any type of instruction to an individual who resides in the state of
83 Missouri that enables the individual to acquire vocational skills so that the individual can
84 become employable or be able to seek a higher grade of employment;

85 (13) "Neighborhood organization", any organization performing community services
86 or economic development activities in the state of Missouri and:

87 (a) Holding a ruling from the Internal Revenue Service of the United States Department
88 of the Treasury that the organization is exempt from income taxation pursuant to the provisions
89 of the Internal Revenue Code; or

90 (b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the
91 provisions of chapter 355, RSMo; or

92 (c) Designated as a community development corporation by the United States
93 government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964;

94 (14) "Physical revitalization", furnishing financial assistance, labor, material, or
95 technical advice to aid in the physical improvement or rehabilitation of any part or all of a
96 neighborhood area;

97 (15) "S corporation", a corporation described in Section 1361(a)(1) of the United States
98 Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by
99 reason of section 143.471, RSMo;

100 (16) "Workfare renovation project", any project initiated pursuant to sections 215.340
101 to 215.355, RSMo.

67.1501. 1. A district may use any one or more of the assessments, taxes, or other
2 funding methods specifically authorized pursuant to sections 67.1401 to 67.1571 to provide
3 funds to accomplish any power, duty or purpose of the district[]; provided, however, no district
4 which is located in any city not within a county and which includes any real property that is also
5 included in a special business district established pursuant to sections 71.790 to 71.808, RSMo,
6 prior to the establishment of the district pursuant to sections 67.1401 to 67.1571 shall have the
7 authority to impose any such tax or assessment pursuant to sections 67.1401 to 67.1571 until
8 such time as all taxes or special assessments imposed pursuant to sections 71.790 to 71.808,
9 RSMo, on any real property or on any business located in such special business district or on any
10 business or individual doing business in such special business district have been repealed in
11 accordance with this subsection. The governing body of a special business district which
12 includes real property located in a district established pursuant to sections 67.1401 to 67.1571
13 shall have the power to repeal all taxes and assessments imposed pursuant to sections 71.790 to
14 71.808, RSMo, and such power may be exercised by the adoption of a resolution by the
15 governing body of such special business district. Upon the adoption of such resolution such

16 special business district shall no longer have the power to impose any tax or special assessment
17 pursuant to sections 71.790 to 71.808, RSMo, until such time as the district or districts
18 established pursuant to sections 67.1401 to 67.1571 which include any real property that is also
19 included in such special business district have been terminated or have expired pursuant to
20 sections 67.1401 to 67.1571].

21 2. A district may establish different classes of real property within the district for
22 purposes of special assessments. The levy rate for special assessments may vary for each class
23 or subclass based on the level of benefit derived from services or improvements funded,
24 provided or caused to be provided by the district.

25 3. Notwithstanding anything in sections 67.1401 to 67.1571 to the contrary, any district
26 which is not a political subdivision shall have no power to levy any tax but shall have the power
27 to levy special assessments in accordance with section 67.1521.

67.1545. 1. Any district formed as a political subdivision may impose by resolution a
2 district sales and use tax on all retail sales made in such district which are subject to taxation
3 pursuant to sections 144.010 to 144.525, RSMo, except sales of motor vehicles, trailers, boats
4 or outboard motors and sales to **or by public utilities and providers of communications, cable,**
5 **or video services.** Any sales and use tax imposed pursuant to this section may be imposed in
6 increments of one-eighth of one percent, up to a maximum of one percent. Such district sales
7 and use tax may be imposed for any district purpose designated by the district in its ballot of
8 submission to its qualified voters; except that, no resolution adopted pursuant to this section
9 shall become effective unless the board of directors of the district submits to the qualified voters
10 of the district, by mail-in ballot, a proposal to authorize a sales and use tax pursuant to this
11 section. If a majority of the votes cast by the qualified voters on the proposed sales tax are in
12 favor of the sales tax, then the resolution is adopted. If a majority of the votes cast by the
13 qualified voters are opposed to the sales tax, then the resolution is void.

14 2. The ballot shall be substantially in the following form:

15 Shall the (insert name of district) Community Improvement District
16 impose a community improvement districtwide sales and use tax at the maximum rate of
17 (insert amount) for a period of (insert number) years from the date on which
18 such tax is first imposed for the purpose of providing revenue for
19 (insert general description of the purpose)?

20 ☐ YES

☐ NO

21

22 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed
23 to the question, place an "X" in the box opposite "NO".

24 3. Within ten days after the qualified voters have approved the imposition of the sales
25 and use tax, the district shall, in accordance with section 32.087, RSMo, notify the director of

26 the department of revenue. The sales and use tax authorized by this section shall become
27 effective on the first day of the second calendar quarter after the director of the department of
28 revenue receives notice of the adoption of such tax.

29 4. The director of the department of revenue shall collect any tax adopted pursuant to
30 this section pursuant to section 32.087, RSMo.

31 5. In each district in which a sales and use tax is imposed pursuant to this section, every
32 retailer shall add such additional tax imposed by the district to such retailer's sale price, and
33 when so added such tax shall constitute a part of the purchase price, shall be a debt of the
34 purchaser to the retailer until paid and shall be recoverable at law in the same manner as the
35 purchase price.

36 6. In order to allow retailers to collect and report the sales and use tax authorized by this
37 section as well as all other sales and use taxes required by law in the simplest and most efficient
38 manner possible, a district may establish appropriate brackets to be used in the district imposing
39 a tax pursuant to this section in lieu of the brackets provided in section 144.285, RSMo.

40 7. The penalties provided in sections 144.010 to 144.525, RSMo, shall apply to
41 violations of this section.

42 8. All revenue received by the district from a sales and use tax imposed pursuant to this
43 section which is designated for a specific purpose shall be deposited into a special trust fund and
44 expended solely for such purpose. Upon the expiration of any sales and use tax adopted
45 pursuant to this section, all funds remaining in the special trust fund shall continue to be used
46 solely for the specific purpose designated in the resolution adopted by the qualified voters. Any
47 funds in such special trust fund which are not needed for current expenditures may be invested
48 by the board of directors pursuant to applicable laws relating to the investment of other district
49 funds.

50 9. A district may repeal by resolution any sales and use tax imposed pursuant to this
51 section before the expiration date of such sales and use tax unless the repeal of such sales and
52 use tax will impair the district's ability to repay any liabilities the district has incurred, moneys
53 the district has borrowed or obligation the district has issued to finance any improvements or
54 services rendered for the district.

55 10. Notwithstanding the provisions of chapter 115, RSMo, an election for a district sales
56 and use tax under this section shall be conducted in accordance with the provisions of this
57 section.

135.155. 1. Notwithstanding any provision of the law to the contrary, no
2 revenue-producing enterprise **other than headquarters as defined in subsection 10 of section**
3 **135.110** shall receive the incentives set forth in sections 135.100 to 135.150 for facilities
4 commencing operations on or after January 1, 2005. **No headquarters as defined in subsection**

5 **10 of section 135.110 shall receive the incentives set forth in subsections 9 to 14 of section**
6 **135.110 for facilities commencing or expanding operations on or after January 1, 2018.**

7 **2. Expansions at headquarters facilities as defined in subsection 10 of section**
8 **135.110 shall each be considered a separate new business facility and each be entitled to**
9 **the credits as set forth in subsections 9 to 14 of section 135.110 if the number of new**
10 **business facility employees attributed to each such expansion is as least twenty-five and the**
11 **amount of new business facility investment attributed to each such expansion is at least one**
12 **million dollars.**

13 **3. Notwithstanding any provision of law to the contrary, for headquarters as**
14 **defined in subsection 10 of section 135.110, buildings on multiple noncontiguous real**
15 **properties shall be considered one facility if the buildings are located within five miles of**
16 **each other.**

135.535. 1. A corporation, limited liability corporation, partnership or sole
2 proprietorship, which moves its operations from outside Missouri or outside a distressed
3 community into a distressed community, or which commences operations in a distressed
4 community on or after January 1, 1999, and in either case has more than seventy-five percent
5 of its employees at the facility in the distressed community, and which has fewer than one
6 hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical,
7 medical devices, scientific research, animal research, computer software design or development,
8 computer programming, including Internet, web hosting, and other information technology,
9 wireless or wired or other telecommunications or a professional firm shall receive a forty percent
10 credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes
11 withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such
12 move, if approved by the department of economic development, which shall issue a certificate
13 of eligibility if the department determines that the taxpayer is eligible for such credit. The
14 maximum amount of credits per taxpayer set forth in this subsection shall not exceed one
15 hundred twenty-five thousand dollars for each of the three years for which the credit is claimed.
16 The department of economic development, by means of rule or regulation promulgated pursuant
17 to the provisions of chapter 536, RSMo, shall assign appropriate North American Industry
18 Classification System numbers to the companies which are eligible for the tax credits provided
19 for in this section. Such three-year credits shall be awarded only one time to any company
20 which moves its operations from outside of Missouri or outside of a distressed community into
21 a distressed community or to a company which commences operations within a distressed
22 community. A taxpayer shall file an application for certification of the tax credits for the first
23 year in which credits are claimed and for each of the two succeeding taxable years for which
24 credits are claimed.

25 2. Employees of such facilities physically working and earning wages for that work
26 within a distressed community whose employers have been approved for tax credits pursuant to
27 subsection 1 of this section by the department of economic development for whom payroll taxes
28 are paid shall also be eligible to receive a tax credit against individual income tax, imposed
29 pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at
30 such facility earned for each of the three years that the facility receives the tax credit provided
31 by this section, so long as they were qualified employees of such entity. The employer shall
32 calculate the amount of such credit and shall report the amount to the employee and the
33 department of revenue.

34 3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo,
35 other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the
36 credit against income taxes as provided in subsection 1 of this section, may be taken by such an
37 entity in a distressed community in an amount of forty percent of the amount of funds expended
38 for computer equipment and its maintenance, medical laboratories and equipment, research
39 laboratory equipment, manufacturing equipment, fiber optic equipment, high speed
40 telecommunications, wiring or software development expense up to a maximum of seventy-five
41 thousand dollars in tax credits for such equipment or expense per year per entity and for each
42 of three years after commencement in or moving operations into a distressed community.
43

44 4. A corporation, partnership or sole partnership, which has no more than one hundred
45 employees for whom payroll taxes are paid, which is already located in a distressed community
46 and which expends funds for such equipment pursuant to subsection 3 of this section in an
47 amount exceeding its average of the prior two years for such equipment, shall be eligible to
48 receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo,
49 in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the
50 funds expended for such additional equipment per such entity. Tax credits allowed pursuant to
51 this subsection or subsection 1 of this section may be carried back to any of the three prior tax
52 years and carried forward to any of the five tax years.

53 5. An existing corporation, partnership or sole proprietorship that is located within a
54 distressed community and that relocates employees from another facility outside of the
55 distressed community to its facility within the distressed community, and an existing business
56 located within a distressed community that hires new employees for that facility may both be
57 eligible for the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such
58 tax credits, such a business, during one of its tax years, shall employ within a distressed
59 community at least twice as many employees as were employed at the beginning of that tax year.
60 A business hiring employees shall have no more than one hundred employees before the addition
61 of the new employees. This subsection shall only apply to a business which is a manufacturing,

62 biomedical, medical devices, scientific research, animal research, computer software design or
63 development, computer programming or telecommunications business, or a professional firm.
64

65 6. Tax credits shall be approved for applicants meeting the requirements of this section
66 in the order that such applications are received. Certificates of tax credits issued in accordance
67 with this section may be transferred, sold or assigned by notarized endorsement which names
68 the transferee.

69 7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall
70 be for an amount of no more than ten million dollars for each year beginning in 1999. To the
71 extent there are available tax credits remaining under the ten million dollar cap provided in this
72 section, [up to one hundred thousand dollars in the] **such** remaining credits shall first be used
73 for tax credits authorized under section 135.562. The total maximum credit for all entities
74 already located in distressed communities and claiming credits pursuant to subsection 4 of this
75 section shall be seven hundred and fifty thousand dollars. The department of economic
76 development in approving taxpayers for the credit as provided for in subsection 6 of this section
77 shall use information provided by the department of revenue regarding taxes paid in the previous
78 year, or projected taxes for those entities newly established in the state, as the method of
79 determining when this maximum will be reached and shall maintain a record of the order of
80 approval. Any tax credit not used in the period for which the credit was approved may be
81 carried over until the full credit has been allowed.

82 8. A Missouri employer relocating into a distressed community and having employees
83 covered by a collective bargaining agreement at the facility from which it is relocating shall not
84 be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not
85 be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a
86 collective bargaining agreement covering employees at the facility, unless the affected collective
87 bargaining unit concurs with the move.

88 9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
89 credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the
90 tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and
91 135.245, respectively, for the same business for the same tax period.

135.562. 1. If any taxpayer with a federal adjusted gross income of thirty thousand
2 dollars or less incurs costs for the purpose of making all or any portion of such taxpayer's
3 principal dwelling accessible to an individual with a disability who permanently resides with the
4 taxpayer, such taxpayer shall receive a tax credit against such taxpayer's Missouri income tax
5 liability in an amount equal to the lesser of one hundred percent of such costs or two thousand
6 five hundred dollars per taxpayer, per tax year.

7 2. Any taxpayer with a federal adjusted gross income greater than thirty thousand dollars
8 but less than sixty thousand dollars who incurs costs for the purpose of making all or any portion
9 of such taxpayer's principal dwelling accessible to an individual with a disability who
10 permanently resides with the taxpayer shall receive a tax credit against such taxpayer's Missouri
11 income tax liability in an amount equal to the lesser of fifty percent of such costs or two
12 thousand five hundred dollars per taxpayer per tax year. No taxpayer shall be eligible to receive
13 tax credits under this section in any tax year immediately following a tax year in which such
14 taxpayer received tax credits under the provisions of this section.

15 3. Tax credits issued pursuant to this section may be refundable in an amount not to
16 exceed two thousand five hundred dollars per tax year.

17 4. Eligible costs for which the credit may be claimed include:

- 18 (1) Constructing entrance or exit ramps;
- 19 (2) Widening exterior or interior doorways;
- 20 (3) Widening hallways;
- 21 (4) Installing handrails or grab bars;
- 22 (5) Moving electrical outlets and switches;
- 23 (6) Installing stairway lifts;
- 24 (7) Installing or modifying fire alarms, smoke detectors, and other alerting systems;
- 25 (8) Modifying hardware of doors; or
- 26 (9) Modifying bathrooms.

27 5. The tax credits allowed, including the maximum amount that may be claimed,
28 pursuant to this section shall be reduced by an amount sufficient to offset any amount of such
29 costs a taxpayer has already deducted from such taxpayer's federal adjusted gross income or to
30 the extent such taxpayer has applied any other state or federal income tax credit to such costs.

31 6. A taxpayer shall claim a credit allowed by this section in the same taxable year as the
32 credit is issued, and at the time such taxpayer files his or her Missouri income tax return;
33 provided that such return is timely filed.

34 7. The department may, in consultation with the department of social services,
35 promulgate such rules or regulations as are necessary to administer the provisions of this section.
36 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created
37 under the authority delegated in this section shall become effective only if it complies with and
38 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
39 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested
40 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
41 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
42 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid
43 and void.

44 8. The provisions of this section shall apply to all tax years beginning on or after January
45 1, 2008.

46 9. The provisions of this section shall expire December 31, 2013.

47 10. In no event shall the aggregate amount of all tax credits allowed pursuant to this
48 section exceed [one hundred thousand dollars] **the amount of tax credits remaining unused**
49 **under the program authorized under section 135.535** in any given fiscal year. The tax credits
50 issued pursuant to this section shall be on a first-come, first-served filing basis.

135.682. 1. The director of the department of economic development or the
2 **director's designee shall issue letter rulings regarding the tax credit program authorized**
3 **under section 135.680, subject to the terms and conditions set forth in this section. The**
4 **director of the department of economic development may impose additional terms and**
5 **conditions consistent with this section to requests for letter rulings by regulation**
6 **promulgated under chapter 536, RSMo. For the purposes of this section, the term "letter**
7 **ruling" means a written interpretation of law to a specific set of facts provided by the**
8 **applicant requesting a letter ruling.**

9 **2. The director or director's designee shall respond to a request for a letter ruling**
10 **within sixty days of receipt of such request. The applicant may provide a draft letter**
11 **ruling for the department's consideration. The applicant may withdraw the request for**
12 **a letter ruling, in writing, prior to the issuance of the letter ruling. The director or the**
13 **director's designee may refuse to issue a letter ruling for good cause, but must list the**
14 **specific reasons for refusing to issue the letter ruling. Good cause includes, but is not**
15 **limited to:**

16 **(1) The applicant requests the director to determine whether a statute is**
17 **constitutional or a regulation is lawful;**

18 **(2) The request involves a hypothetical situation or alternative plans;**

19 **(3) The facts or issues presented in the request are unclear, overbroad, insufficient,**
20 **or otherwise inappropriate as a basis upon which to issue a letter ruling; and**

21 **(4) The issue is currently being considered in a rulemaking procedure, contested**
22 **case, or other agency or judicial proceeding that may definitely resolve the issue.**

23 **3. Letter rulings shall bind the director and the director's agents and their**
24 **successors until such time as the taxpayer or its shareholders, members, or partners, as**
25 **applicable, claim all of such tax credits on a Missouri tax return, subject to the terms and**
26 **conditions set forth in properly published regulations. The letter ruling shall apply only**
27 **to the applicant.**

28 **4. Letter rulings issued under the authority of this section shall not be a rule as**
29 **defined in section 536.010, RSMo, in that it is an interpretation issued by the department**

30 with respect to a specific set of facts and intended to apply only to that specific set of facts,
31 and therefore shall not be subject to the rulemaking requirements of chapter 536, RSMo.

32 **5. Information in letter ruling requests as described in section 620.014, RSMo, shall**
33 **be closed to the public. Copies of letter rulings shall be available to the public provided**
34 **that the applicant identifying information and otherwise protected information is redacted**
35 **from the letter ruling as provided in subsection 1 of section 610.024, RSMo.**

135.967. 1. A taxpayer who establishes a new business facility may, upon approval by
2 the department, be allowed a credit, each tax year for up to ten tax years, in an amount
3 determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding
4 withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive
5 multiple ten-year periods for subsequent expansions at the same facility.

6 2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes
7 a new business facility in an enhanced enterprise zone and is awarded state tax credits under this
8 section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to
9 [135.268] **135.286**, or section 135.535, **and may not simultaneously receive tax credits under**
10 **sections 620.1875 to 620.1890, RSMo, at the same facility.**

11 3. No credit shall be issued pursuant to this section unless:

12 (1) The number of new business facility employees engaged or maintained in
13 employment at the new business facility for the taxable year for which the credit is claimed
14 equals or exceeds two; and

15 (2) The new business facility investment for the taxable year for which the credit is
16 claimed equals or exceeds one hundred thousand dollars.

17 4. The annual amount of credits allowed for an approved enhanced business enterprise
18 shall be the lesser of:

19 (1) The annual amount authorized by the department for the enhanced business
20 enterprise, which shall be limited to the projected state economic benefit, as determined by the
21 department; or

22 (2) The sum calculated based upon the following:

23 (a) A credit of four hundred dollars for each new business facility employee employed
24 within an enhanced enterprise zone;

25 (b) An additional credit of four hundred dollars for each new business facility employee
26 who is a resident of an enhanced enterprise zone;

27 (c) An additional credit of four hundred dollars for each new business facility employee
28 who is paid by the enhanced business enterprise a wage that exceeds the average wage paid
29 within the county in which the facility is located, as determined by the department; and

30 (d) A credit equal to two percent of new business facility investment within an enhanced
31 enterprise zone.

32 5. Prior to January 1, 2007, in no event shall the department authorize more than four
33 million dollars annually to be issued for all enhanced business enterprises. After December 31,
34 2006, in no event shall the department authorize more than [fourteen] **twenty-four** million
35 dollars annually to be issued for all enhanced business enterprises.

36 6. If a facility, which does not constitute a new business facility, is expanded by the
37 taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

38 (1) The taxpayer's new business facility investment in the expansion during the tax
39 period in which the credits allowed in this section are claimed exceeds one hundred thousand
40 dollars and if the number of new business facility employees engaged or maintained in
41 employment at the expansion facility for the taxable year for which credit is claimed equals or
42 exceeds two, and the total number of employees at the facility after the expansion is at least two
43 greater than the total number of employees before the expansion; and

44 (2) The taxpayer's investment in the expansion and in the original facility prior to
45 expansion shall be determined in the manner provided in subdivision [(14)] **(19)** of section
46 135.950.

47 7. The number of new business facility employees during any taxable year shall be
48 determined by dividing by twelve the sum of the number of individuals employed on the last
49 business day of each month of such taxable year. If the new business facility is in operation for
50 less than the entire taxable year, the number of new business facility employees shall be
51 determined by dividing the sum of the number of individuals employed on the last business day
52 of each full calendar month during the portion of such taxable year during which the new
53 business facility was in operation by the number of full calendar months during such period. For
54 the purpose of computing the credit allowed by this section in the case of a facility which
55 qualifies as a new business facility under subsection 6 of this section, and in the case of a new
56 business facility which satisfies the requirements of paragraph (c) of subdivision [(14)] **(17)** of
57 section 135.950, or subdivision [(22)] **(25)** of section 135.950, the number of new business
58 facility employees at such facility shall be reduced by the average number of individuals
59 employed, computed as provided in this subsection, at the facility during the taxable year
60 immediately preceding the taxable year in which such expansion, acquisition, or replacement
61 occurred and shall further be reduced by the number of individuals employed by the taxpayer
62 or related taxpayer that was subsequently transferred to the new business facility from another
63 Missouri facility and for which credits authorized in this section are not being earned, whether
64 such credits are earned because of an expansion, acquisition, relocation, or the establishment of
65 a new facility.

66 8. In the case where a new business facility employee who is a resident of an enhanced
67 enterprise zone for less than a twelve-month period is employed for less than a twelve-month
68 period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section

69 shall be determined by multiplying four hundred dollars by a fraction, the numerator of which
70 is the number of calendar days during the taxpayer's tax year for which such credits are claimed,
71 in which the employee was a resident of an enhanced enterprise zone, and the denominator of
72 which is three hundred sixty-five.

73 9. For the purpose of computing the credit allowed by this section in the case of a facility
74 which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case
75 of a new business facility which satisfies the requirements of paragraph (c) of subdivision [(14)]
76 (17) of section 135.950 or subdivision [(22)] (25) of section 135.950, the amount of the
77 taxpayer's new business facility investment in such facility shall be reduced by the average
78 amount, computed as provided in subdivision [(14)] (19) of section 135.950 for new business
79 facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding
80 such expansion or replacement or at the time of acquisition. Furthermore, the amount of the
81 taxpayer's new business facility investment shall also be reduced by the amount of investment
82 employed by the taxpayer or related taxpayer which was subsequently transferred to the new
83 business facility from another Missouri facility and for which credits authorized in this section
84 are not being earned, whether such credits are earned because of an expansion, acquisition,
85 relocation, or the establishment of a new facility.

86 10. For a taxpayer with flow-through tax treatment to its members, partners, or
87 shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to
88 their share of ownership on the last day of the taxpayer's tax period.

89 11. Credits may not be carried forward but shall be claimed for the taxable year during
90 which commencement of commercial operations occurs at such new business facility, and for
91 each of the nine succeeding taxable years for which the credit is issued.

92 12. Certificates of tax credit authorized by this section may be transferred, sold, or
93 assigned by filing a notarized endorsement thereof with the department that names the
94 transferee, the amount of tax credit transferred, and the value received for the credit, as well as
95 any other information reasonably requested by the department. The sale price cannot be less
96 than seventy-five percent of the par value of such credits.

97 13. The director of revenue shall issue a refund to the taxpayer to the extent that the
98 amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

99 14. Prior to the issuance of tax credits, the department shall verify through the
100 department of revenue, or any other state department, that the tax credit applicant does not owe
101 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
102 fees or assessments levied by any state department and through the department of insurance that
103 the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect
104 the authorization of the application for such tax credits, except that the amount of credits issued
105 shall be reduced by the applicant's tax delinquency. If the department of revenue or the

106 department of insurance, or any other state department, concludes that a taxpayer is delinquent
107 after June fifteenth but before July first of any year and the application of tax credits to such
108 delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall
109 be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax
110 shall be tolled. After applying all available credits toward a tax delinquency, the administering
111 agency shall notify the appropriate department, and that department shall update the amount of
112 outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all
113 insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the
114 applicant, subject to the restrictions of other provisions of law.

137.115. 1. All other laws to the contrary notwithstanding, the assessor or the assessor's
2 deputies in all counties of this state including the city of St. Louis shall annually make a list of
3 all real and tangible personal property taxable in the assessor's city, county, town or district.
4 Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor
5 shall annually assess all personal property at thirty-three and one-third percent of its true value
6 in money as of January first of each calendar year. The assessor shall annually assess all real
7 property, including any new construction and improvements to real property, and possessor
8 interests in real property at the percent of its true value in money set in subsection 5 of this
9 section. **The true value in money of any possessor interest in real property in subclass (3),
10 where such real property is on or lies within the ultimate airport boundary as shown by
11 a federal airport layout plan, as defined by 14 CFR 151.5 of a commercial airport having
12 a FAR Part 139 certification and owned by a political subdivision, shall be the otherwise
13 applicable true value in money of any such possessor interest in real property, less the total
14 dollar amount of costs paid by a party, other than the political subdivision, towards any
15 new construction or improvements on such real property completed after January 1, 2008,
16 and which are included in the above-mentioned possessor interest, regardless of the year
17 in which such costs were incurred or whether such costs were considered in any prior year.**
18 The assessor shall annually assess all real property in the following manner: new assessed
19 values shall be determined as of January first of each odd-numbered year and shall be entered
20 in the assessor's books; those same assessed values shall apply in the following even-numbered
21 year, except for new construction and property improvements which shall be valued as though
22 they had been completed as of January first of the preceding odd-numbered year. The assessor
23 may call at the office, place of doing business, or residence of each person required by this
24 chapter to list property, and require the person to make a correct statement of all taxable tangible
25 personal property owned by the person or under his or her care, charge or management, taxable
26 in the county. On or before January first of each even-numbered year, the assessor shall prepare
27 and submit a two-year assessment maintenance plan to the county governing body and the state
28 tax commission for their respective approval or modification. The county governing body shall

29 approve and forward such plan or its alternative to the plan to the state tax commission by
30 February first. If the county governing body fails to forward the plan or its alternative to the
31 plan to the state tax commission by February first, the assessor's plan shall be considered
32 approved by the county governing body. If the state tax commission fails to approve a plan and
33 if the state tax commission and the assessor and the governing body of the county involved are
34 unable to resolve the differences, in order to receive state cost-share funds outlined in section
35 137.750, the county or the assessor shall petition the administrative hearing commission, by May
36 first, to decide all matters in dispute regarding the assessment maintenance plan. Upon
37 agreement of the parties, the matter may be stayed while the parties proceed with mediation or
38 arbitration upon terms agreed to by the parties. The final decision of the administrative hearing
39 commission shall be subject to judicial review in the circuit court of the county involved. In the
40 event a valuation of subclass (1) real property within any county with a charter form of
41 government, or within a city not within a county, is made by a computer, computer-assisted
42 method or a computer program, the burden of proof, supported by clear, convincing and cogent
43 evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such
44 county, unless the assessor proves otherwise, there shall be a presumption that the assessment
45 was made by a computer, computer-assisted method or a computer program. Such evidence
46 shall include, but shall not be limited to, the following:

47 (1) The findings of the assessor based on an appraisal of the property by generally
48 accepted appraisal techniques; and

49 (2) The purchase prices from sales of at least three comparable properties and the
50 address or location thereof. As used in this [paragraph] **subdivision**, the word "comparable"
51 means that:

52 (a) Such sale was closed at a date relevant to the property valuation; and

53 (b) Such properties are not more than one mile from the site of the disputed property,
54 except where no similar properties exist within one mile of the disputed property, the nearest
55 comparable property shall be used. Such property shall be within five hundred square feet in
56 size of the disputed property, and resemble the disputed property in age, floor plan, number of
57 rooms, and other relevant characteristics.

58 2. Assessors in each county of this state and the city of St. Louis may send personal
59 property assessment forms through the mail.

60 3. The following items of personal property shall each constitute separate subclasses of
61 tangible personal property and shall be assessed and valued for the purposes of taxation at the
62 following percentages of their true value in money:

63 (1) Grain and other agricultural crops in an unmanufactured condition, one-half of one
64 percent;

65 (2) Livestock, twelve percent;

- 66 (3) Farm machinery, twelve percent;
- 67 (4) Motor vehicles which are eligible for registration as and are registered as historic
68 motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five
69 years old and which are used solely for noncommercial purposes and are operated less than fifty
70 hours per year or aircraft that are home built from a kit, five percent;
- 71 (5) Poultry, twelve percent; and
- 72 (6) Tools and equipment used for pollution control and tools and equipment used in
73 retooling for the purpose of introducing new product lines or used for making improvements to
74 existing products by any company which is located in a state enterprise zone and which is
75 identified by any standard industrial classification number cited in subdivision (6) of section
76 135.200, RSMo, twenty-five percent.
- 77 4. The person listing the property shall enter a true and correct statement of the property,
78 in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed
79 and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered
80 to the assessor.
- 81 5. All subclasses of real property, as such subclasses are established in section 4(b) of
82 article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the
83 following percentages of true value:
- 84 (1) For real property in subclass (1), nineteen percent;
- 85 (2) For real property in subclass (2), twelve percent; and
- 86 (3) For real property in subclass (3), thirty-two percent.
- 87 6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used
88 as dwelling units shall be assessed at the same percentage of true value as residential real
89 property for the purpose of taxation. The percentage of assessment of true value for such
90 manufactured homes shall be the same as for residential real property. If the county collector
91 cannot identify or find the manufactured home when attempting to attach the manufactured
92 home for payment of taxes owed by the manufactured home owner, the county collector may
93 request the county commission to have the manufactured home removed from the tax books, and
94 such request shall be granted within thirty days after the request is made; however, the removal
95 from the tax books does not remove the tax lien on the manufactured home if it is later identified
96 or found. A manufactured home located in a manufactured home rental park, rental community
97 or on real estate not owned by the manufactured home owner shall be considered personal
98 property. A manufactured home located on real estate owned by the manufactured home owner
99 may be considered real property.
- 100 7. Each manufactured home assessed shall be considered a parcel for the purpose of
101 reimbursement pursuant to section 137.750, unless the manufactured home has been converted

102 to real property in compliance with section 700.111, RSMo, and assessed as a realty
103 improvement to the existing real estate parcel.

104 8. Any amount of tax due and owing based on the assessment of a manufactured home
105 shall be included on the personal property tax statement of the manufactured home owner unless
106 the manufactured home has been converted to real property in compliance with section 700.111,
107 RSMo, in which case the amount of tax due and owing on the assessment of the manufactured
108 home as a realty improvement to the existing real estate parcel shall be included on the real
109 property tax statement of the real estate owner.

110 9. The assessor of each county and each city not within a county shall use the trade-in
111 value published in the October issue of the National Automobile Dealers' Association Official
112 Used Car Guide, or its successor publication, as the recommended guide of information for
113 determining the true value of motor vehicles described in such publication. In the absence of
114 a listing for a particular motor vehicle in such publication, the assessor shall use such
115 information or publications which in the assessor's judgment will fairly estimate the true value
116 in money of the motor vehicle.

117 10. Before the assessor may increase the assessed valuation of any parcel of subclass (1)
118 real property by more than fifteen percent since the last assessment, excluding increases due to
119 new construction or improvements, the assessor shall conduct a physical inspection of such
120 property.

121 11. If a physical inspection is required, pursuant to subsection 10 of this section, the
122 assessor shall notify the property owner of that fact in writing and shall provide the owner clear
123 written notice of the owner's rights relating to the physical inspection. If a physical inspection
124 is required, the property owner may request that an interior inspection be performed during the
125 physical inspection. The owner shall have no less than thirty days to notify the assessor of a
126 request for an interior physical inspection.

127 12. A physical inspection, as required by subsection 10 of this section, shall include, but
128 not be limited to, an on-site personal observation and review of all exterior portions of the land
129 and any buildings and improvements to which the inspector has or may reasonably and lawfully
130 gain external access, and shall include an observation and review of the interior of any buildings
131 or improvements on the property upon the timely request of the owner pursuant to subsection
132 11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall
133 not be considered sufficient to constitute a physical inspection as required by this section.

134 13. The provisions of subsections 11 and 12 of this section shall only apply in any
135 county with a charter form of government with more than one million inhabitants.

136 14. A county or city collector may accept credit cards as proper form of payment of
137 outstanding property tax or license due. No county or city collector may charge surcharge for
138 payment by credit card which exceeds the fee or surcharge charged by the credit card bank,

processor, or issuer for its service. A county or city collector may accept payment by electronic transfers of funds in payment of any tax or license and charge the person making such payment a fee equal to the fee charged the county by the bank, processor, or issuer of such electronic payment.

15. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt out of the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, for the next year of the general reassessment, prior to January first of any year. No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate a single tax rate as in effect prior to the enactment of house bill no. 1150 of the ninety-first general assembly, second regular session. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, and section 137.073 as modified by [this act] **house committee substitute for senate substitute for senate committee substitute for senate bill no. 960, ninety-second general assembly, second regular session**, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

16. The governing body of any city of the third classification with more than twenty-six thousand three hundred but fewer than twenty-six thousand seven hundred inhabitants located in any county that has exercised its authority to opt out under subsection 15 of this section may levy separate and differing tax rates for real and personal property only if such city bills and collects its own property taxes or satisfies the entire cost of the billing and collection of such separate and differing tax rates. Such separate and differing rates shall not exceed such city's tax rate ceiling.

137.1018. 1. The commission shall ascertain the statewide average rate of property taxes levied the preceding year, based upon the total assessed valuation of the railroad and street

3 railway companies and the total property taxes levied upon the railroad and street railway
4 companies. It shall determine total property taxes levied from reports prescribed by the
5 commission from the railroad and street railway companies. Total taxes levied shall not include
6 revenues from the surtax on subclass three real property.

7 2. The commission shall report its determination of average property tax rate for the
8 preceding year, together with the taxable distributable assessed valuation of each freight line
9 company for the current year to the director no later than October first of each year.

10 3. Taxes on property of such freight line companies shall be collected at the state level
11 by the director on behalf of the counties and other local public taxing entities and shall be
12 distributed in accordance with sections 137.1021 and 137.1024. The director shall tax such
13 property based upon the distributable assessed valuation attributable to Missouri of each freight
14 line company, using the average tax rate for the preceding year of the railroad and street railway
15 companies certified by the commission. Such tax shall be due and payable on or before
16 December thirty-first of the year levied and, if it becomes delinquent, shall be subject to a
17 penalty equal to that specified in section 140.100, RSMo.

18 **4. (1) As used in this subsection, the following terms mean:**

19 **(a) "Eligible expenses", expenses incurred in this state to manufacture, maintain,**
20 **or improve a freight line company's qualified rolling stock;**

21 **(b) "Qualified rolling stock", any freight, stock, refrigerator, or other railcars**
22 **subject to the tax levied under this section.**

23 **(2) For all taxable years beginning on or after January 1, 2009, a freight line**
24 **company shall be allowed a credit against the tax levied under this section for the**
25 **applicable tax year. The tax credit amount shall be equal to the amount of eligible**
26 **expenses incurred during the calendar year immediately preceding the tax year for which**
27 **the credit under this section is claimed. The amount of the tax credit issued shall not**
28 **exceed the freight line company's liability for the tax levied under this section for the tax**
29 **year for which the credit is claimed.**

30 **(3) A freight line company may apply for the credit by submitting to the**
31 **commission an application in the form prescribed by the state tax commission.**

32 **(4) The state shall reimburse, on an annual basis, any political subdivision of this**
33 **state for any decrease in revenue due to the provisions of this section.**

144.030. 1. There is hereby specifically exempted from the provisions of sections
2 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to
3 sections 144.010 to 144.525 such retail sales as may be made in commerce between this state
4 and any other state of the United States, or between this state and any foreign country, and any
5 retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or
6 laws of the United States of America, and such retail sales of tangible personal property which

7 the general assembly of the state of Missouri is prohibited from taxing or further taxing by the
8 constitution of this state.

9 2. There are also specifically exempted from the provisions of the local sales tax law as
10 defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and
11 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to
12 the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections
13 144.010 to 144.525 and 144.600 to 144.745:

14 (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of
15 such excise tax is refunded pursuant to section 142.824, RSMo; or upon the sale at retail of fuel
16 to be consumed in manufacturing or creating gas, power, steam, electrical current or in
17 furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be
18 converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed,
19 limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when
20 harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in
21 processed form at retail; economic poisons registered pursuant to the provisions of the Missouri
22 pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in
23 connection with the growth or production of crops, fruit trees or orchards applied before, during,
24 or after planting, the crop of which when harvested will be sold at retail or will be converted into
25 foodstuffs which are to be sold ultimately in processed form at retail;

26 (2) Materials, manufactured goods, machinery and parts which when used in
27 manufacturing, processing, compounding, mining, producing or fabricating become a component
28 part or ingredient of the new personal property resulting from such manufacturing, processing,
29 compounding, mining, producing or fabricating and which new personal property is intended
30 to be sold ultimately for final use or consumption; and materials, including without limitation,
31 gases and manufactured goods, including without limitation, slagging materials and firebrick,
32 which are ultimately consumed in the manufacturing process by blending, reacting or interacting
33 with or by becoming, in whole or in part, component parts or ingredients of steel products
34 intended to be sold ultimately for final use or consumption;

35 (3) Materials, replacement parts and equipment purchased for use directly upon, and for
36 the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock
37 or aircraft engaged as common carriers of persons or property;

38 (4) Replacement machinery, equipment, and parts and the materials and supplies solely
39 required for the installation or construction of such replacement machinery, equipment, and
40 parts, used directly in manufacturing, mining, fabricating or producing a product which is
41 intended to be sold ultimately for final use or consumption; and machinery and equipment, and
42 the materials and supplies required solely for the operation, installation or construction of such
43 machinery and equipment, purchased and used to establish new, or to replace or expand existing,

44 material recovery processing plants in this state. For the purposes of this subdivision, a
45 "material recovery processing plant" means a facility that has as its primary purpose the recovery
46 of materials into a useable product or a different form which is used in producing a new product
47 and shall include a facility or equipment which are used exclusively for the collection of
48 recovered materials for delivery to a material recovery processing plant but shall not include
49 motor vehicles used on highways. For purposes of this section, the terms motor vehicle and
50 highway shall have the same meaning pursuant to section 301.010, RSMo. Material recovery
51 is not the reuse of materials within a manufacturing process or the use of a product previously
52 recovered. The material recovery processing plant shall qualify under the provisions of this
53 section regardless of ownership of the material being recovered;

54 (5) Machinery and equipment, and parts and the materials and supplies solely required
55 for the installation or construction of such machinery and equipment, purchased and used to
56 establish new or to expand existing manufacturing, mining or fabricating plants in the state if
57 such machinery and equipment is used directly in manufacturing, mining or fabricating a product
58 which is intended to be sold ultimately for final use or consumption;

59 (6) Tangible personal property which is used exclusively in the manufacturing,
60 processing, modification or assembling of products sold to the United States government or to
61 any agency of the United States government;

62 (7) Animals or poultry used for breeding or feeding purposes;

63 (8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and
64 other machinery, equipment, replacement parts and supplies used in producing newspapers
65 published for dissemination of news to the general public;

66 (9) The rentals of films, records or any type of sound or picture transcriptions for public
67 commercial display;

68 (10) Pumping machinery and equipment used to propel products delivered by pipelines
69 engaged as common carriers;

70 (11) Railroad rolling stock for use in transporting persons or property in interstate
71 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or
72 more or trailers used by common carriers, as defined in section 390.020, RSMo, in the
73 transportation of persons or property;

74 (12) Electrical energy used in the actual primary manufacture, processing, compounding,
75 mining or producing of a product, or electrical energy used in the actual secondary processing
76 or fabricating of the product, or a material recovery processing plant as defined in subdivision
77 (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical
78 energy so used exceeds ten percent of the total cost of production, either primary or secondary,
79 exclusive of the cost of electrical energy so used or if the raw materials used in such processing
80 contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo.

81 There shall be a rebuttable presumption that the raw materials used in the primary manufacture
82 of automobiles contain at least twenty-five percent recovered materials. For purposes of this
83 subdivision, "processing" means any mode of treatment, act or series of acts performed upon
84 materials to transform and reduce them to a different state or thing, including treatment
85 necessary to maintain or preserve such processing by the producer at the production facility;

86 (13) Anodes which are used or consumed in manufacturing, processing, compounding,
87 mining, producing or fabricating and which have a useful life of less than one year;

88 (14) Machinery, equipment, appliances and devices purchased or leased and used solely
89 for the purpose of preventing, abating or monitoring air pollution, and materials and supplies
90 solely required for the installation, construction or reconstruction of such machinery, equipment,
91 appliances and devices, and so certified as such by the director of the department of natural
92 resources, except that any action by the director pursuant to this subdivision may be appealed
93 to the air conservation commission which may uphold or reverse such action;

94 (15) Machinery, equipment, appliances and devices purchased or leased and used solely
95 for the purpose of preventing, abating or monitoring water pollution, and materials and supplies
96 solely required for the installation, construction or reconstruction of such machinery, equipment,
97 appliances and devices, and so certified as such by the director of the department of natural
98 resources, except that any action by the director pursuant to this subdivision may be appealed
99 to the Missouri clean water commission which may uphold or reverse such action;

100 (16) Tangible personal property purchased by a rural water district;

101 (17) All amounts paid or charged for admission or participation or other fees paid by or
102 other charges to individuals in or for any place of amusement, entertainment or recreation,
103 games or athletic events, including museums, fairs, zoos and planetariums, owned or operated
104 by a municipality or other political subdivision where all the proceeds derived therefrom benefit
105 the municipality or other political subdivision and do not inure to any private person, firm, or
106 corporation;

107 (18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1,
108 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of
109 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically
110 including hearing aids and hearing aid supplies and all sales of drugs which may be legally
111 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to
112 administer those items, including samples and materials used to manufacture samples which may
113 be dispensed by a practitioner authorized to dispense such samples and all sales of medical
114 oxygen, home respiratory equipment and accessories, hospital beds and accessories and
115 ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers,
116 electronic Braille equipment and, if purchased by or on behalf of a person with one or more
117 physical or mental disabilities to enable them to function more independently, all sales of

118 scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and
119 augmentative communication devices, and items used solely to modify motor vehicles to permit
120 the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or
121 nonprescription drugs to individuals with disabilities;

122 (19) All sales made by or to religious and charitable organizations and institutions in
123 their religious, charitable or educational functions and activities and all sales made by or to all
124 elementary and secondary schools operated at public expense in their educational functions and
125 activities;

126 (20) All sales of aircraft to common carriers for storage or for use in interstate commerce
127 and all sales made by or to not-for-profit civic, social, service or fraternal organizations,
128 including fraternal organizations which have been declared tax-exempt organizations pursuant
129 to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or
130 charitable functions and activities and all sales made to eleemosynary and penal institutions and
131 industries of the state, and all sales made to any private not-for-profit institution of higher
132 education not otherwise excluded pursuant to subdivision (19) of this subsection or any
133 institution of higher education supported by public funds, and all sales made to a state relief
134 agency in the exercise of relief functions and activities;

135 (21) All ticket sales made by benevolent, scientific and educational associations which
136 are formed to foster, encourage, and promote progress and improvement in the science of
137 agriculture and in the raising and breeding of animals, and by nonprofit summer theater
138 organizations if such organizations are exempt from federal tax pursuant to the provisions of the
139 Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any
140 fair conducted by a county agricultural and mechanical society organized and operated pursuant
141 to sections 262.290 to 262.530, RSMo;

142 (22) All sales made to any private not-for-profit elementary or secondary school, all
143 sales of feed additives, medications or vaccines administered to livestock or poultry in the
144 production of food or fiber, all sales of pesticides used in the production of crops, livestock or
145 poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for
146 food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for
147 drying agricultural crops, natural gas used in the primary manufacture or processing of fuel
148 ethanol as defined in section 142.028, RSMo, natural gas, propane, and electricity used by an
149 eligible new generation cooperative or an eligible new generation processing entity as defined
150 in section 348.432, RSMo, and all sales of farm machinery and equipment, other than airplanes,
151 motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible
152 personal property which, when mixed with feed for livestock or poultry, is to be used in the
153 feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes
154 adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used

to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

(a) Used exclusively for agricultural purposes;

(b) Used on land owned or leased for the purpose of producing farm products; and

(c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth

day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

228 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other
229 utilities which are ultimately consumed in connection with the manufacturing of cellular glass
230 products or in any material recovery processing plant as defined in subdivision (4) of this
231 subsection;

232 (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or
233 herbicides used in the production of crops, aquaculture, livestock or poultry;

234 (33) Tangible personal property and utilities purchased for use or consumption directly
235 or exclusively in the research and development of agricultural/biotechnology and plant genomics
236 products and prescription pharmaceuticals consumed by humans or animals;

237 (34) All sales of grain bins for storage of grain for resale;

238 (35) All sales of feed which are developed for and used in the feeding of pets owned by
239 a commercial breeder when such sales are made to a commercial breeder, as defined in section
240 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

241 (36) All purchases by a contractor on behalf of an entity located in another state,
242 provided that the entity is authorized to issue a certificate of exemption for purchases to a
243 contractor under the provisions of that state's laws. For purposes of this subdivision, the term
244 "certificate of exemption" shall mean any document evidencing that the entity is exempt from
245 sales and use taxes on purchases pursuant to the laws of the state in which the entity is located.
246 Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's
247 exemption certificate as evidence of the exemption. If the exemption certificate issued by the
248 exempt entity to the contractor is later determined by the director of revenue to be invalid for
249 any reason and the contractor has accepted the certificate in good faith, neither the contractor
250 or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the
251 result of use of the invalid exemption certificate. Materials shall be exempt from all state and
252 local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible
253 personal property which is used in fulfilling a contract for the purpose of constructing, repairing
254 or remodeling facilities for the following:

255 (a) An exempt entity located in this state, if the entity is one of those entities able to
256 issue project exemption certificates in accordance with the provisions of section 144.062; or

257 (b) An exempt entity located outside the state if the exempt entity is authorized to issue
258 an exemption certificate to contractors in accordance with the provisions of that state's law and
259 the applicable provisions of this section;

260 (37) All sales or other transfers of tangible personal property to a lessor who leases the
261 property under a lease of one year or longer executed or in effect at the time of the sale or other
262 transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441, RSMo,
263 or sections 238.010 to 238.100, RSMo;

(38) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(39) All purchases by a sports complex authority created under section 64.920, RSMo; and

(40) Beginning January 1, 2009, but not after January 1, 2015, materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories.

144.057. In addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, RSMo, sections 144.010 to 144.525, sections 144.600 to 144.761, or section 238.235, RSMo, all tangible personal property included on the United States munitions list, as provided in 22 CFR 121.1, sold to or purchased by any foreign government or agency or instrumentality of such foreign government which is used for a governmental purpose.

155.010. As used in this chapter, the following terms mean:

(1) "Aircraft", any contrivance now known, or hereafter invented, used or designed for navigation of, or flight in, the air;

(2) "Airline company", any person, firm, partnership, corporation, trustee, receiver or assignee, and all other persons, whether or not in a representative capacity, undertaking to engage in the carriage of persons or cargo for hire by commercial aircraft pursuant to certificates of convenience and necessity issued by the federal Civil Aeronautics Board, or successor thereof, or any noncertificated air carrier authorized to engage in irregular and infrequent air transportation by the federal Civil Aeronautics Board, or successor thereof;

(3) "Aviation fuel", any fuel specifically compounded for use in reciprocating aircraft engines;

(4) "Commercial aircraft", aircraft fully equipped for flight and of more than [seven] **three** thousand pounds maximum certified gross take-off weight.

253.550. 1. Any person, firm, partnership, trust, estate, or corporation incurring costs and expenses for the rehabilitation of eligible property, which is a certified historic structure or structure in a certified historic district, shall be entitled to a credit against the taxes imposed pursuant to chapters 143 and 148, RSMo, except for sections 143.191 to 143.265, RSMo, on that person or entity in an amount equal to twenty-five percent of the total costs and expenses of

6 rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified
7 rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code
8 of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs
9 associated with rehabilitation and the expenses exceed fifty percent of the total basis in the
10 property and the rehabilitation meets standards consistent with the standards of the Secretary of
11 the United States Department of the Interior for rehabilitation as determined by the state historic
12 preservation officer of the Missouri department of natural resources.

13 **2. For purposes of sections 253.545 to 253.559, any municipal library district and**
14 **any nonprofit entity to which the municipal library district has transferred a structure**
15 **shall be deemed a corporation and a for-profit entity, if the nonprofit entity immediately**
16 **enters into a lease or other agreement that gives the municipal library district the right to**
17 **use, control, and possess the structure and the structure being rehabilitated was first**
18 **placed into service before the year 1936. In determining the rehabilitation expenditures**
19 **for which credits are permitted, Sections 47(c)(2)(B)(v) and 168 of the Internal Revenue**
20 **Code of 1986, as amended, shall be disregarded.**

348.273. As used in sections 348.273 and 348.274, the following terms shall mean:

2 **(1) "Department", the Missouri department of economic development;**

3 **(2) "Distressed community", as defined in section 135.530, RSMo;**

4 **(3) "Equity investment", money or money equivalent in consideration for qualified**
5 **securities. An equity investment shall be deemed to have been made on the date of**
6 **acquisition of the qualified security, as such date is determined in accordance with the**
7 **provisions of the Internal Revenue Code;**

8 **(4) "Investor":**

9 **(a) An individual who is an accredited investor, as defined in 17 CFR 230.501(a)**
10 **as in effect on August 28, 2008; or**

11 **(b) Any partnership, corporation, trust, limited liability company, or not-for-profit**
12 **entity that was established and is operated for the purpose of making preseed and seed**
13 **stage investments in start-up companies, and is approved by the department;**

14 **(5) "Qualified Missouri business", an independently owned and operated business**
15 **which is headquartered and located in this state and which is in need of venture capital.**
16 **Such business shall have no more than two hundred employees, eighty percent of which are**
17 **employed in this state. Such business shall be involved in commerce for the purpose of**
18 **manufacturing, processing, or assembling products, conducting research and development,**
19 **or providing services in interstate commerce but excluding retail, real estate, real estate**
20 **development, insurance, and professional services provided by accountants, lawyers, or**
21 **physicians. At the time approval is sought, such business shall be a small business concern**
22 **that meets the requirements of the United States Small Business Administration's**

23 qualification size standards for its venture capital program, as defined in the Small
24 Business Investment Act of 1958, as amended, and rules promulgated in 13 CFR
25 121.301(c), as amended;

26 (6) "Qualified securities", securities that are not redeemable or repayable within
27 seven years of issuance and that have been approved in form and substance by the
28 department. Forms of such equity securities include:

29 (a) A general or limited partnership interest;

30 (b) Common stock;

31 (c) Preferred stock, with or without voting rights, without regard to seniority
32 position, and whether or not convertible into common stock; or

33 (d) Convertible debt;

34 (7) "Rural area", any city, town, or village with fewer than fifteen thousand
35 inhabitants and located in any county that is not part of a standard metropolitan statistical
36 area as defined by the United States Department of Commerce or its successor agency.
37 However, any such city, town, or village located in any county so defined as a standard
38 metropolitan statistical area may be designated a rural area by the office of rural
39 development if:

40 (a) A substantial number of persons in such county derive their income from
41 agriculture;

42 (b) The county has only one city within the county having a population of more
43 than fifteen thousand and is classified as a standard metropolitan statistical area; and

44 (c) All other cities, towns, and villages in that county have a population of less than
45 fifteen thousand.

348.274. 1. The department may authorize tax credits to encourage equity
2 investment into technology-based early stage Missouri companies.

3 2. If a qualified Missouri business is approved by the department, the investors who
4 contribute the first five hundred thousand dollars in equity investment in the qualified
5 Missouri business may be issued a tax credit in the year the equity investment is made.
6 The tax credit shall be in a total amount equal to thirty percent of such investors' equity
7 investment in any qualified Missouri business, subject to the limitations set forth in
8 subsection 5 of this section. However, if the qualified Missouri business invested in is
9 located in a rural area or a distressed community, the investors may be issued a tax credit
10 for forty percent of such investment, subject to the limitations set forth in subsection 5 of
11 this section.

12 3. (1) Before an investor may be entitled to receive tax credits, as authorized by
13 this section, such investor shall have made an equity investment in a qualified security of
14 a qualified Missouri business. This business shall have been approved by the department

15 as a qualified Missouri business prior to the date on which the cash investment was made.
16 To be designated as a qualified Missouri business, a business shall make application to the
17 department in accordance with the provisions of this section. Such application shall be in
18 form and substance as required by the department but shall include at least the following:

19 (a) The name of the business and certified copies of the organizational documents
20 of the business;

21 (b) A business plan, including a description of the business and the management,
22 product, market, and financial plan of the business;

23 (c) A statement of the business' innovative and proprietary technology, product,
24 or service;

25 (d) A statement of the potential economic impact of the enterprise including the
26 number, location, and types of jobs expected to be created;

27 (e) A description of the qualified securities to be issued, the consideration to be paid
28 for the qualified securities, the amount of any tax credits requested, and the earliest year
29 in which the tax credits may be redeemed;

30 (f) A statement of the amount, timing, and projected use of the proceeds to be
31 raised from the proposed sale of qualified securities; and

32 (g) Other information as the department may request, such as the names,
33 addresses, and taxpayer identification numbers of all investors who may qualify for the tax
34 credit. Such list of investors who may qualify for the tax credits shall be amended as new
35 qualified securities are sold or as any information on the list changes.

36 (2) No business shall be designated as a qualified Missouri business unless such
37 business meets all of the following criteria:

38 (a) The business shall not have had annual gross revenues of more than three
39 million dollars in the most recent tax year of the business;

40 (b) The business shall not have ownership interests including, but not limited to,
41 common or preferred shares of stock that can be traded by the public via a stock exchange,
42 electronic exchange, bulletin board, or other public market place on or before the date that
43 a qualifying investment is made;

44 (c) The business shall not be engaged primarily in any one or more of the following
45 enterprises:

46 a. The business of banking, savings and loan or lending institutions, credit or
47 finance, or financial brokerage or investments;

48 b. Professional services, such as legal, accounting or engineering services;

49 c. Governmental, charitable, religious or trade organizations;

50 d. The ownership, development, brokerage, sales, or leasing of real estate;

51 e. Insurance;

- 52 **f. Construction or construction management or contracting;**
53 **g. Business consulting or brokerage;**
54 **h. Any business engaged primarily as a passive business, having irregular or**
55 **noncontinuous operations, or deriving substantially all of the income of the business from**
56 **passive investments that generate interest, dividends, royalties, or capital gains, or any**
57 **business arrangements the effect of which is to immunize an investor from risk of loss;**
58 **i. Any Missouri certified capital formation company;**
59 **j. Any activity that is in violation of the law; and**
60 **k. Any business raising money primarily to purchase real estate, land, or fixtures;**
61 **(d) The business shall satisfy all other requirements of this section.**
62 **(3) The portions of documents and other materials submitted to the department**
63 **that contain trade secrets shall be kept confidential and shall be maintained in a secured**
64 **environment by the director of the department. For the purposes of this section, such**
65 **portions of documents and other materials shall mean any customer list, any formula,**
66 **compound, production data, or compilation of information certain individuals within a**
67 **commercial concern using such portions of documents and other material means to**
68 **fabricate, produce, or compound an article of trade, or, any service having commercial**
69 **value, which gives the user an opportunity to obtain a business advantage over competitors**
70 **who do not know or use such service.**
71 **(4) A qualified Missouri business shall have the burden of proof to demonstrate to**
72 **the department the qualifications of the business under this section and shall have the**
73 **obligation to notify the department in a timely manner of any changes in the qualifications**
74 **of the business or in the eligibility of investors to claim a tax credit for cash investment in**
75 **a qualified security.**
76 **4. The designation of a business as a qualified Missouri business shall be made by**
77 **the department, and such designation shall be renewed annually. A business shall be so**
78 **designated if the department determines, based upon the application submitted by the**
79 **business and any additional investigation the staff of the department shall make, that the**
80 **following criteria have been or shall be satisfied:**
81 **(1) The business has a reasonable chance of success;**
82 **(2) The ability of investors in the business to receive tax credits for cash**
83 **investments in qualified securities of the business is necessary because funding otherwise**
84 **available for the business is not available on commercially reasonable terms;**
85 **(3) The business has the reasonable potential to create measurable employment**
86 **within the state;**
87 **(4) The business has an innovative and proprietary technology, product, and**
88 **service;**

89 **(5) The existing owners of the business and other founders have made or are**
90 **committed to make a substantial financial and time commitment to the business;**

91 **(6) The securities to be issued and purchased are qualified securities; and**

92 **(7) Binding commitments have been made by the business to the department for**
93 **adequate reporting of financial data, including a requirement for an annual report, or, if**
94 **required by the department, an annual audit of the financial and operational records of**
95 **the business, the right of access to the financial records of the business, and the right of the**
96 **department to record and publish normal and customary data and information related to**
97 **the issuance of tax credits that are not otherwise determined to be trade or business**
98 **secrets;**

99 **5. The department shall not issue tax credits of more than fifty thousand dollars**
100 **to an investor per investment into a single, qualified Missouri company, or for tax credits**
101 **totaling more than one hundred thousand dollars in a single year per investor. The total**
102 **amount of tax credits that may be allowed under this section shall not exceed five million**
103 **dollars per tax year.**

104 **6. This tax credit may be used in its entirety in the taxable year in which the equity**
105 **investment is made or the credit may be carried forward for use in any of the next three**
106 **consecutive tax years until the total amount of the credit is used. The tax credits may be**
107 **sold, assigned, exchanged, or otherwise transferred.**

108 **7. Tax credits may be used against the tax otherwise due under chapter 143, RSMo,**
109 **not including sections 143.191 to 143.265, RSMo.**

110 **8. A qualified Missouri business for which credits have been issued that, within**
111 **seven years of receiving tax credits under this section relocates its headquarters out of**
112 **Missouri, ceases to employ eighty percent of its employees in Missouri, alters the principal**
113 **nature of its operations, or divests itself of key assets shall upon demand by the department**
114 **pay the state of Missouri an amount equal to the amount of credits issued to its**
115 **contributors.**

116 **9. The reasonable costs of the administration of this section, the review of**
117 **applications for certification as qualified Missouri businesses, and the issuance of tax**
118 **credits authorized by this section shall be reimbursed through fees paid by the qualified**
119 **Missouri businesses and the investors or the transferees of investors, according to a**
120 **reasonable fee schedule adopted by the department.**

121 **10. In addition to reports by the businesses to the department, the department shall**
122 **also provide in its annual report information on the marketing and use of the investor tax**
123 **credits. This report shall include the following:**

(1) The amount of tax credits used in the previous fiscal year including what percentage was claimed by individuals and what percentage was claimed by firms and other entities;

(2) The types of businesses that benefited from the tax credits; and

(3) Any aggregate job creation or capital investment in Missouri that resulted from the use of the tax credits for a period of five years beginning from the date on which the tax credits were awarded.

In addition, the annual report shall provide information regarding what businesses deriving a benefit from the tax credits remained in Missouri, what businesses ceased business, what businesses were purchased, and what businesses may have moved out-of-state and the reason for such move.

447.708. 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150, RSMo, and sections 135.200 to 135.257, RSMo. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

(2) For receipt of the income tax exemption pursuant to section 135.220, RSMo, and tax credit for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225, RSMo, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718, the tax credits described in section 135.225, RSMo, are modified as follows: the tax credit shall be four hundred dollars per employee per year, an additional four hundred dollars per year for each employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new and existing businesses, respectively, an additional four hundred dollars per year for each person who is "a person difficult to employ" as defined by section 135.240,

25 RSMo, and investment tax credits at the same amounts and levels as provided in subdivision (4)
26 of subsection 1 of section 135.225, RSMo;

27 (3) For eligibility to receive the income tax refund pursuant to section 135.245, RSMo,
28 the eligible project must create at least ten new jobs or retain businesses which supply at least
29 twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of
30 section 135.245, RSMo, for application and use of the refund and the eligibility requirements
31 of this section;

32 (4) The eligible project operates in compliance with applicable environmental laws and
33 regulations, including permitting and registration requirements, of this state as well as the federal
34 and local requirements;

35 (5) The eligible project operator shall file such reports as may be required by the director
36 of economic development or the director's designee;

37 (6) The taxpayer may claim the state tax credits authorized by this subsection and the
38 state income exemption for a period not in excess of ten consecutive tax years. For the purpose
39 of this section, "taxpayer" means an individual proprietorship, partnership or corporation
40 described in section 143.441 or 143.471, RSMo, who operates an eligible project. The director
41 shall determine the number of years the taxpayer may claim the state tax credits and the state
42 income exemption based on the projected net state economic benefits attributed to the eligible
43 project;

44 (7) For the purpose of meeting the new job requirement prescribed in subdivisions (1),
45 (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and
46 maintained during the taxpayer's tax period for which the credits are earned, in the case of an
47 eligible project that does not replace a similar facility in Missouri. "New job" means a person
48 who was not previously employed by the taxpayer or related taxpayer within the twelve-month
49 period immediately preceding the time the person was employed by that taxpayer to work at, or
50 in connection with, the eligible project on a full-time basis. "Full-time basis" means the
51 employee works an average of at least thirty-five hours per week during the taxpayer's tax period
52 for which the tax credits are earned. For the purposes of this section, "related taxpayer" has the
53 same meaning as defined in subdivision (9) of section 135.100, RSMo;

54 (8) For the purpose of meeting the existing job retention requirement, if the eligible
55 project replaces a similar facility that closed elsewhere in Missouri prior to the end of the
56 taxpayer's tax period in which the tax credits are earned, it shall be required that at least
57 twenty-five existing jobs be retained at, and in connection with the eligible project, on a
58 full-time basis during the taxpayer's tax period for which the credits are earned. "Retained job"
59 means a person who was previously employed by the taxpayer or related taxpayer, at a facility
60 similar to the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's
61 tax period in which the tax credits are earned, within the tax period immediately preceding the

62 time the person was employed by the taxpayer to work at, or in connection with, the eligible
63 project on a full-time basis. "Full-time basis" means the employee works an average of at least
64 thirty-five hours per week during the taxpayer's tax period for which the tax credits are earned;

65 (9) In the case where an eligible project replaces a similar facility that closed elsewhere
66 in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the
67 owner and operator of the eligible project shall provide the director with a written statement
68 explaining the reason for discontinuing operations at the closed facility. The statement shall
69 include a comparison of the activities performed at the closed facility prior to the date the facility
70 ceased operating, to the activities performed at the eligible project, and a detailed account
71 describing the need and rationale for relocating to the eligible project. If the director finds the
72 relocation to the eligible project significantly impaired the economic stability of the area in
73 which the closed facility was located, and that such move was detrimental to the overall
74 economic development efforts of the state, the director may deny the taxpayer's request to claim
75 tax benefits;

76 (10) Notwithstanding any provision of law to the contrary, for the purpose of this
77 section, the number of new jobs created and maintained, the number of existing jobs retained,
78 and the value of new qualified investment used at the eligible project during any tax year shall
79 be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals
80 employed at the eligible project, or in the case of new qualified investment, the value of new
81 qualified investment used at the eligible project, on the last business day of each full calendar
82 month of the tax year. If the eligible project is in operation for less than the entire tax year, the
83 number of new jobs created and maintained, the number of existing jobs retained, and the value
84 of new qualified investment created at the eligible project during any tax year shall be
85 determined by dividing the sum of the number of individuals employed at the eligible project,
86 or in the case of new qualified investment, the value of new qualified investment used at the
87 eligible project, on the last business day of each full calendar month during the portion of the
88 tax year during which the eligible project was in operation, by the number of full calendar
89 months during such period;

90 (11) For the purpose of this section, "new qualified investment" means new business
91 facility investment as defined and as determined in subdivision (7) of section 135.100, RSMo,
92 which is used at and in connection with the eligible project. "New qualified investment" shall
93 not include small tools, supplies and inventory. "Small tools" means tools that are portable and
94 can be hand held.

95 2. The determination of the director of economic development pursuant to subsection
96 1 of this section, shall not affect requirements for the prospective purchaser to obtain the
97 approval of the granting of real property tax abatement by the municipal or county government
98 where the eligible project is located.

99 3. (1) The director of the department of economic development, with the approval of
100 the director of the department of natural resources, may, in addition to the tax credits allowed
101 in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one
102 hundred percent of the costs of materials, supplies, equipment, labor, professional engineering,
103 consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement,
104 and direct utility charges for performing the voluntary remediation activities for the preexisting
105 hazardous substance contamination and releases, including, but not limited to, the costs of
106 performing operation and maintenance of the remediation equipment at the property beyond the
107 year in which the systems and equipment are built and installed at the eligible project and the
108 costs of performing the voluntary remediation activities over a period not in excess of four tax
109 years following the taxpayer's tax year in which the system and equipment were first put into use
110 at the eligible project, provided the remediation activities are the subject of a plan submitted to,
111 and approved by, the director of natural resources pursuant to sections 260.565 to 260.575,
112 RSMo. **The tax credit may also include up to one hundred percent of the costs of**
113 **demolition that are not directly part of the remediation activities, provided that the**
114 **demolition is on the property where the voluntary remediation activities are occurring, the**
115 **demolition is necessary to accomplish the planned use of the facility where the remediation**
116 **activities are occurring, and the demolition is part of a redevelopment plan approved by**
117 **the municipal or county government and the department of economic development. The**
118 **demolition may occur on an adjacent property if the project is located in a municipality**
119 **which has a population less than twenty thousand and the above conditions are otherwise**
120 **met. The adjacent property shall independently qualify as abandoned or underutilized.**
121 **The amount of the credit available for demolition not associated with remediation can not**
122 **exceed the total amount of credits approved for remediation including demolition required**
123 **for remediation.**

124 (2) [The director of the department of economic development, with the approval of the
125 director of the department of natural resources, may, in addition to the tax credits otherwise
126 allowed in this section, grant a demolition tax credit to the applicant for up to one hundred
127 percent of the costs of demolition that are not part of the voluntary remediation activities,
128 provided that the demolition is either on the property where the voluntary remediation activities
129 are occurring or on any adjacent property, and that the demolition is part of a redevelopment
130 plan approved by the municipal or county government and the department of economic
131 development.

132 (3)] The amount of remediation [and demolition] tax credits issued shall be limited to
133 the least amount necessary to cause the project to occur, as determined by the director of the
134 department of economic development.

135 [(4)] (3) The director may, with the approval of the director of natural resources, extend
136 the tax credits allowed for performing voluntary remediation maintenance activities, in
137 increments of three-year periods, not to exceed five consecutive three-year periods. The tax
138 credits allowed in this subsection shall be used to offset the tax imposed by chapter 143, RSMo,
139 excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the tax otherwise
140 imposed by chapter 147, RSMo, or the tax otherwise imposed by chapter 148, RSMo. The
141 remediation [and demolition] tax credit may be taken in the same tax year in which the tax
142 credits are received or may be taken over a period not to exceed twenty years.

143 [(5)] (4) The project facility shall be projected to create at least ten new jobs or at least
144 twenty-five retained jobs, or a combination thereof, as determined by the department of
145 economic development, to be eligible for tax credits pursuant to this section.

146 [(6)] (5) No more than seventy-five percent of earned remediation tax credits may be
147 issued when the remediation costs were paid, and the remaining percentage may be issued when
148 the department of natural resources issues a "Letter of Completion" letter or covenant not to sue
149 following completion of the voluntary remediation activities. It shall not include any costs
150 associated with ongoing operational environmental compliance of the facility or remediation
151 costs arising out of spills, leaks, or other releases arising out of the ongoing business operations
152 of the facility.

153 4. In the exercise of the sound discretion of the director of the department of economic
154 development or the director's designee, the tax credits and exemptions described in this section
155 may be terminated, suspended or revoked, if the eligible project fails to continue to meet the
156 conditions set forth in this section. In making such a determination, the director shall consider
157 the severity of the condition violation, actions taken to correct the violation, the frequency of any
158 condition violations and whether the actions exhibit a pattern of conduct by the eligible facility
159 owner and operator. The director shall also consider changes in general economic conditions
160 and the recommendation of the director of the department of natural resources, or his or her
161 designee, concerning the severity, scope, nature, frequency and extent of any violations of the
162 environmental compliance conditions. The taxpayer or person claiming the tax credits or
163 exemptions may appeal the decision regarding termination, suspension or revocation of any tax
164 credit or exemption in accordance with the procedures outlined in subsections 4 to 6 of section
165 135.250, RSMo. The director of the department of economic development shall notify the
166 directors of the departments of natural resources and revenue of the termination, suspension or
167 revocation of any tax credits as determined in this section or pursuant to the provisions of section
168 447.716.

169 5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
170 credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection
171 1 of this section and the tax credits otherwise allowed in section 135.110, RSMo, or the tax

credits, exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245, RSMo, respectively, for the same facility for the same tax period.

6. The total amount of the tax credits allowed in subsection 1 of this section may not exceed the greater of:

(1) That portion of the taxpayer's income attributed to the eligible project; or

(2) One hundred percent of the total business' income tax if the eligible facility does not replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; fifty percent of the total business' income tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer does not operate any other facilities besides the eligible project in Missouri; or twenty-five percent of the total business income if the taxpayer operates, in addition to the eligible facility, any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business income in any tax period. That portion of the taxpayer's income attributed to the eligible project as referenced in subdivision (1) of this subsection, for which the credits allowed in sections 135.110 and 135.225, RSMo, and subsection 3 of this section, may apply, shall be determined in the same manner as prescribed in subdivision (6) of section 135.100, RSMo. That portion of the taxpayer's franchise tax attributed to the eligible project for which the remediation tax credit may offset, shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of section 135.100, RSMo.

7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax credits shall not be carried forward but shall be initially claimed for the tax period during which the eligible project was first capable of being used, and during any applicable subsequent tax periods.

8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section shall be required to file all applicable tax credit applications, forms and schedules prescribed by the director during the taxpayer's tax period immediately after the tax period in which the eligible project was first put into use, or during the taxpayer's tax period immediately after the tax period in which the voluntary remediation activities were performed.

9. The recipient of remediation tax credits, for the purpose of this subsection referred to as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed

209 in subsection 3 of this section, to any other person, for the purpose of this subsection referred
210 to as assignee. To perfect the transfer, the assignor shall provide written notice to the director
211 of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective,
212 the assignee's name, address and the assignee's tax period and the amount of tax credits to be
213 transferred. The number of tax periods during which the assignee may subsequently claim the
214 tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor
215 previously claimed the credits before the transfer occurred.

216 10. In the case where an operator and assignor of an eligible project has been certified
217 to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and
218 sells or otherwise transfers title of the eligible project to another taxpayer or assignee who
219 continues the same or substantially similar operations at the eligible project, the director shall
220 allow the assignee to claim the credits for a period of time to be determined by the director;
221 except that, the total number of tax periods the tax credits may be earned by the assignor and the
222 assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice
223 to the director of the assignor's intent to transfer the tax credits to the assignee, the date the
224 transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount
225 of tax credits to be transferred.

226 11. For the purpose of the state tax benefits described in this section, in the case of a
227 corporation described in section 143.471, RSMo, or partnership, in computing Missouri's tax
228 liability, such state benefits shall be allowed to the following:

- 229 (1) The shareholders of the corporation described in section 143.471, RSMo;
230 (2) The partners of the partnership.

231

232 The credit provided in this subsection shall be apportioned to the entities described in
233 subdivisions (1) and (2) of this subsection in proportion to their share of ownership on the last
234 day of the taxpayer's tax period.

620.495. 1. This section shall be known as the "Small Business Incubators Act".

2 2. As used in this section, unless the context clearly indicates otherwise, the following
3 words and phrases shall mean:

4 (1) "department", the department of economic development;

5 (2) "Incubator", a program in which small units of space may be leased by a tenant and
6 in which management maintains or provides access to business development services for use by
7 tenants or a program without infrastructure in which participants avail themselves of business
8 development services to assist in the growth of their start-up small businesses;

9 (3) "Local sponsor" or "sponsor", an organization which enters into a written agreement
10 with the department to establish, operate and administer a small business incubator program or
11 to provide funding to an organization which operates such a program;

12 (4) "Participant", a sole proprietorship, business partnership or corporation operating a
13 business for profit through which the owner avails himself or herself of business development
14 services in an incubator program;

15 (5) "Tenant", a sole proprietorship, business partnership or corporation operating a
16 business for profit and leasing or otherwise occupying space in an incubator.

17 3. There is hereby established under the direction of the department a loan, loan
18 guarantee and grant program for the establishment, operation and administration of small
19 business incubators, to be known as the "Small Business Incubator Program". A local sponsor
20 may submit an application to the department to obtain a loan, loan guarantee or grant to establish
21 an incubator. Each application shall:

22 (1) Demonstrate that a program exists that can be transformed into an incubator at a
23 specified cost;

24 (2) Demonstrate the ability to directly provide or arrange for the provision of business
25 development services for tenants and participants of the incubator. These services shall include,
26 but need not be limited to, financial consulting assistance, management and marketing
27 assistance, business education, and physical services;

28 (3) Demonstrate a potential for sustained use of the incubator program by eligible
29 tenants and participants, through a market study or other means;

30 (4) Demonstrate the ability to manage and operate the incubator program;

31 (5) Include such other information as the department may require through its guidelines.

32 4. The department shall review and accept applications based on the following criteria:

33 (1) Ability of the local sponsor to carry out the provisions of this section;

34 (2) Economic impact of the incubator on the community;

35 (3) Conformance with areawide and local economic development plans, if such exist;

36 (4) Location of the incubator, in order to encourage geographic distribution of incubators
37 across the state.

38 5. Loans, loan guarantees and grants shall be administered in the following manner:

39 (1) Loans awarded or guaranteed and grants awarded shall be used only for the
40 acquisition and leasing of land and existing buildings, the rehabilitation of buildings or other
41 facilities, construction of new facilities, the purchase of equipment and furnishings which are
42 necessary for the creation and operation of the incubator, and business development services
43 including, but not limited to, business management advising and business education;

44 (2) Loans, loan guarantees and grants may not exceed fifty percent of total eligible
45 project costs;

46 (3) Payment of interest and principal on loans may be deferred at the discretion of the
47 department.

48 6. A local sponsor, or the organization receiving assistance through the local sponsor,
49 shall have the following responsibilities and duties in establishing and operating an incubator
50 with assistance from the small business incubator program:

- 51 (1) Secure title on a facility for the program or a lease of a facility for the program;
- 52 (2) Manage the physical development of the incubator program, including the provision
53 of common conference or meeting space;
- 54 (3) Furnish and equip the program to provide business services to the tenants and
55 participants;
- 56 (4) Market the program and secure eligible tenants and participants;
- 57 (5) Provide financial consulting, marketing and management assistance services or
58 arrange for the provision of these services for tenants and participants of the incubator, including
59 assistance in accessing private financial markets;
- 60 (6) Set rental and service fees;
- 61 (7) Encourage the sharing of ideas between tenants and participants and otherwise aid
62 the tenants and participants in an innovative manner while they are within the incubator;
- 63 (8) Establish policies and criteria for the acceptance of tenants and participants into the
64 incubator and for the termination of occupancy of tenants so as to maximize the opportunity to
65 succeed for the greatest number of tenants, consistent with those specified in this section.

66 7. The department:

- 67 (1) May adopt such rules, statements of policy, procedures, forms and guidelines as may
68 be necessary for the implementation of this section;
- 69 (2) May make loans, loan guarantees and grants to local sponsors for incubators;
- 70 (3) Shall ensure that local sponsors receiving loans, loan guarantees or grants meet the
71 conditions of this section;
- 72 (4) Shall receive and evaluate annual reports from local sponsors. Such annual reports
73 shall include, but need not be limited to, a financial statement for the incubator, evidence that
74 all tenants and participants in the program are eligible under the terms of this section, and a list
75 of companies in the incubator.

76 8. The department of economic development is also hereby authorized to review any
77 previous loans made under this program and, where appropriate in the department's judgment,
78 convert such loans to grant status.

79 9. On or before January first of each year, the department shall provide a report to the
80 governor, the chief clerk of the house of representatives and the secretary of the senate which
81 shall include, but need not be limited to:

- 82 (1) The number of applications for incubators submitted to the department;
- 83 (2) The number of applications for incubators approved by the department;
- 84 (3) The number of incubators created through the small business incubator program;

- 85 (4) The number of tenants and participants engaged in each incubator;
86 (5) The number of jobs provided by each incubator and tenants and participant of each
87 incubator;
88 (6) The occupancy rate of each incubator;
89 (7) The number of firms still operating in the state after leaving incubators and the
90 number of jobs they have provided.
- 91 10. There is hereby established in the state treasury a special fund to be known as the
92 "Missouri Small Business Incubators Fund", which shall consist of all moneys which may be
93 appropriated to it by the general assembly, and also any gifts, contributions, grants or bequests
94 received from federal, private or other sources. Moneys for loans, loan guarantees and grants
95 under the small business incubator program may be obtained from appropriations made by the
96 general assembly from the Missouri small business incubators fund. Any moneys remaining in
97 the Missouri small business incubators fund at the end of any fiscal year shall not lapse to the
98 general revenue fund, as provided in section 33.080, RSMo, but shall remain in the Missouri
99 small business incubators fund.
- 100 11. For any taxable year beginning after December 31, 1989, a taxpayer, including any
101 charitable organization which is exempt from federal income tax and whose Missouri unrelated
102 business taxable income, if any, would be subject to the state income tax imposed under chapter
103 143, RSMo, shall be entitled to a tax credit against any tax otherwise due under the provisions
104 of chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding withholding tax
105 imposed by sections 143.191 to 143.265, RSMo, in the amount of fifty percent of any amount
106 contributed by the taxpayer to the Missouri small business incubators fund during the taxpayer's
107 tax year or any contribution by the taxpayer to a local sponsor after the local sponsor's
108 application has been accepted and approved by the department. The tax credit allowed by this
109 subsection shall be claimed by the taxpayer at the time he files his return and shall be applied
110 against the income tax liability imposed by chapter 143, RSMo, or chapter 147, RSMo, or
111 chapter 148, RSMo, after all other credits provided by law have been applied. That portion of
112 earned tax credits which exceeds the taxpayer's tax liability may be carried forward for up to five
113 years. The aggregate of all tax credits authorized under this section shall not exceed [five
114 hundred thousand] **two million** dollars in any taxable year.
- 115 12. Notwithstanding any provision of Missouri law to the contrary, any taxpayer may
116 sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 11 of this
117 section under the terms and conditions prescribed in subdivisions (1) and (2) of this subsection.
118 Such taxpayer, hereinafter the assignor for the purpose of this subsection, may sell, assign,
119 exchange or otherwise transfer earned tax credits:
- 120 (1) For no less than seventy-five percent of the par value of such credits; and
121 (2) In an amount not to exceed one hundred percent of annual earned credits.

122 The taxpayer acquiring earned credits, hereinafter the assignee for the purpose of this subsection,
123 may use the acquired credits to offset up to one hundred percent of the tax liabilities otherwise
124 imposed by chapter 143, RSMo, or chapter 147, RSMo, or chapter 148, RSMo, excluding
125 withholding tax imposed by sections 143.191 to 143.265, RSMo. Unused credits in the hands
126 of the assignee may be carried forward for up to five years. The assignor shall enter into a
127 written agreement with the assignee establishing the terms and conditions of the agreement and
128 shall perfect such transfer by notifying the department of economic development in writing
129 within thirty calendar days following the effective day of the transfer and shall provide any
130 information as may be required by the department of economic development to administer and
131 carry out the provisions of this section. The director of the department of economic
132 development shall prescribe the method for submitting applications for claiming the tax credit
133 allowed under subsection 11 of this section and shall, if the application is approved, certify to
134 the director of revenue that the taxpayer claiming the credit has satisfied all the requirements
135 specified in this section and is eligible to claim the credit.

620.1039. 1. As used in this section, the term "taxpayer" means an individual, a
2 partnership, or any charitable organization which is exempt from federal income tax and whose
3 Missouri unrelated business taxable income, if any, would be subject to the state income tax
4 imposed under chapter 143, RSMo, or a corporation as described in section 143.441 or 143.471,
5 RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same
6 meaning as prescribed in 26 U.S.C. 41, **except that such qualified research expenses shall be**
7 **limited to those incurred in the research and development of agricultural biotechnology,**
8 **plant genomics products, diagnostic and therapeutic medical devices, prescription**
9 **pharmaceuticals consumed by humans or animals, or qualified research expenses incurred**
10 **in the research, development or manufacture of power system technology for aerospace,**
11 **space, defense, or implantable or wearable medical devices.**

12 2. For tax years beginning on or after January 1, 2001, the director of the department of
13 economic development [may] **shall** authorize a taxpayer to receive a tax credit against the tax
14 otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes
15 withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to six and one-half
16 percent [of the excess] of the taxpayer's qualified research expenses, as certified by the director
17 of the department of economic development[, within this state during the taxable year over the
18 average of the taxpayer's qualified research expenses within this state over the immediately
19 preceding three taxable years; except that, no tax credit shall be allowed on that portion of the
20 taxpayer's qualified research expenses incurred within this state during the taxable year in which
21 the credit is being claimed, to the extent such expenses exceed two hundred percent of the
22 taxpayer's average qualified research expenses incurred during the immediately preceding three
23 taxable years].

24 3. The director of economic development shall prescribe the manner in which the tax
25 credit may be applied for. The tax credit authorized by this section may be claimed by the
26 taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that
27 becomes due in the tax year during which such qualified research expenses were incurred.
28 Where the amount of the credit exceeds the tax liability, the difference between the credit and
29 the tax liability may only be carried forward for the next five succeeding taxable years or until
30 the full credit has been claimed, whichever first occurs. The application for tax credits
31 authorized by the director pursuant to subsection 2 of this section shall be made **no earlier than**
32 **January first and no later than [the end of] July first of the calendar year immediately**
33 **following the calendar year in which** the taxpayer's tax period [immediately following the tax
34 period] for which the credits are being claimed **ended. The director shall act on any such**
35 **application for tax credits no sooner than August first but no later than August fifteenth**
36 **of each year for applications filed in that calendar year.**

37 4. Certificates of tax credit issued pursuant to this section may be transferred, sold or
38 assigned by filing a notarized endorsement thereof with the department which names the
39 transferee and the amount of tax credit transferred. The director of economic development may
40 allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates
41 of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax
42 year commencing on or after January 1, [1996] **2009**, and ending not later than December 31,
43 [1999] **2015**. Such taxpayer shall file, by December 31, [2001] **2017**, an application with the
44 department which names the transferee, the amount of tax credit desired to be transferred, and
45 a certification that the funds received by the applicant as a result of the transfer, sale or
46 assignment of the tax credit shall be expended within three years at the state university for the
47 sole purpose of conducting research activities agreed upon by the department, the taxpayer and
48 the state university. Failure to expend such funds in the manner prescribed pursuant to this
49 section shall cause the applicant to be subject to the provisions of section 620.017.

50 5. No rule or portion of a rule promulgated under the authority of this section shall
51 become effective unless it has been promulgated pursuant to the provisions of chapter 536,
52 RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and
53 repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of
54 any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of
55 chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable
56 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
57 including the ability to review, to delay the effective date, or to disapprove and annul a rule or
58 portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking
59 authority and any rule so proposed and contained in the order of rulemaking shall be invalid and
60 void.

61 6. The aggregate of all tax credits authorized pursuant to this section shall not exceed
62 [nine] **ten** million [seven hundred thousand] dollars in any **calendar** year. **In the event that**
63 **total eligible claims for credits received in a calendar year exceed the annual cap, each**
64 **eligible claimant shall be issued credits based upon the following formula: the eligible**
65 **credits if the annual cap had not been exceeded multiplied by the ratio of the annual cap**
66 **divided by the total of all eligible claims for credits filed in that calendar year.**

67 7. [For all tax years beginning on or after January 1, 2005, no tax credits shall be
68 approved, awarded, or issued to any person or entity claiming any tax credit under this section]
69 **No one taxpayer shall be issued more than thirty percent of the aggregate of all tax credits**
70 **authorized under this section in any calendar year.**

 620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms shall
2 mean:

3 (1) "Approval", a document submitted by the department to the qualified company that
4 states the benefits that may be provided by this program;

5 (2) "Average wage", the new payroll divided by the number of new jobs;

6 (3) "Commencement of operations", the starting date for the qualified company's first
7 new employee, which must be no later than twelve months from the date of the approval;

8 (4) "County average wage", the average wages in each county as determined by the
9 department for the most recently completed full calendar year. However, if the computed county
10 average wage is above the statewide average wage, the statewide average wage shall be deemed
11 the county average wage for such county for the purpose of determining eligibility. The
12 department shall publish the county average wage for each county at least annually.
13 Notwithstanding the provisions of this subdivision to the contrary, for any qualified company
14 that in conjunction with their project is relocating employees from a Missouri county with a
15 higher county average wage, the company shall obtain the endorsement of the governing body
16 of the community from which jobs are being relocated or the county average wage for their
17 project shall be the county average wage for the county from which the employees are being
18 relocated;

19 (5) "Department", the Missouri department of economic development;

20 (6) "Director", the director of the department of economic development;

21 (7) "Employee", a person employed by a qualified company;

22 (8) "Full-time employee", an employee of the qualified company that is scheduled to
23 work an average of at least thirty-five hours per week for a twelve-month period, and one for
24 which the qualified company offers health insurance and pays at least fifty percent of such
25 insurance premiums;

26 (9) "High-impact project", a qualified company that, within two years from
27 commencement of operations, creates one hundred or more new jobs;

28 (10) "Local incentives", the present value of the dollar amount of direct benefit received
29 by a qualified company for a project facility from one or more local political subdivisions, but
30 shall not include loans or other funds provided to the qualified company that must be repaid by
31 the qualified company to the political subdivision;

32 (11) "NAICS", the 1997 edition of the North American Industry Classification System
33 as prepared by the Executive Office of the President, Office of Management and Budget. Any
34 NAICS sector, subsector, industry group or industry identified in this section shall include its
35 corresponding classification in subsequent federal industry classification systems;

36 (12) "New direct local revenue", the present value of the dollar amount of direct net new
37 tax revenues of the local political subdivisions likely to be produced by the project over a
38 ten-year period as calculated by the department, excluding local earnings tax, and net new utility
39 revenues, provided the local incentives include a discount or other direct incentives from utilities
40 owned or operated by the political subdivision;

41 (13) "New investment", the purchase or leasing of new tangible assets to be placed in
42 operation at the project facility, which will be directly related to the new jobs;

43 (14) "New job", the number of full-time employees located at the project facility that
44 exceeds the project facility base employment less any decrease in the number of full-time
45 employees at related facilities below the related facility base employment. No job that was
46 created prior to the date of the notice of intent shall be deemed a new job. An employee that
47 spends less than fifty percent of the employee's work time at the facility is still considered to be
48 located at a facility if the employee receives his or her directions and control from that facility,
49 is on the facility's payroll, one hundred percent of the employee's income from such employment
50 is Missouri income, and the employee is paid at or above the state average wage;

51 (15) "New payroll", the amount of taxable wages of full-time employees, excluding
52 owners, located at the project facility that exceeds the project facility base payroll. If full-time
53 employment at related facilities is below the related facility base employment, any decrease in
54 payroll for full-time employees at the related facilities below that related facility base payroll
55 shall also be subtracted to determine new payroll;

56 (16) "Notice of intent", a form developed by the department, completed by the qualified
57 company and submitted to the department which states the qualified company's intent to hire
58 new jobs and request benefits under this program;

59 (17) "Percent of local incentives", the amount of local incentives divided by the amount
60 of new direct local revenue;

61 (18) "Program", the Missouri quality jobs program provided in sections 620.1875 to
62 620.1890;

63 (19) "Project facility", the building used by a qualified company at which the new jobs
64 and new investment will be located. A project facility may include separate buildings that are

65 located within one mile of each other **or within the same county** such that their purpose and
66 operations are interrelated;

67 (20) "Project facility base employment", the greater of the number of full-time
68 employees located at the project facility on the date of the notice of intent or for the
69 twelve-month period prior to the date of the notice of intent, the average number of full-time
70 employees located at the project facility. In the event the project facility has not been in
71 operation for a full twelve-month period, the average number of full-time employees for the
72 number of months the project facility has been in operation prior to the date of the notice of
73 intent;

74 (21) "Project facility base payroll", the total amount of taxable wages paid by the
75 qualified company to full-time employees of the qualified company located at the project facility
76 in the twelve months prior to the notice of intent, not including the payroll of the owners of the
77 qualified company unless the qualified company is participating in an employee stock ownership
78 plan. For purposes of calculating the benefits under this program, the amount of base payroll
79 shall increase each year based on an appropriate measure, as determined by the department;

80 (22) "Project period", the time period that the benefits are provided to a qualified
81 company;

82 (23) "Qualified company", a firm, partnership, joint venture, association, private or
83 public corporation whether organized for profit or not, or headquarters of such entity registered
84 to do business in Missouri that is the owner or operator of a project facility, offers health
85 insurance to all full-time employees of all facilities located in this state, and pays at least fifty
86 percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the
87 term "qualified company" shall not include:

88 (a) Gambling establishments (NAICS industry group 7132);

89 (b) Retail trade establishments (NAICS sectors 44 and 45);

90 (c) Food and drinking places (NAICS subsector 722);

91 (d) Public utilities (NAICS 221 including water and sewer services);

92 (e) Any company that is delinquent in the payment of any nonprotested taxes or any
93 other amounts due the state or federal government or any other political subdivision of this state;

94 (f) Any company that has filed for or has publicly announced its intention to file for
95 bankruptcy protection;

96 (g) Educational services (NAICS sector 61);

97 (h) Religious organizations (NAICS industry group 8131); [or]

98 (i) Public administration (NAICS sector 92);

99 **(j) Ethanol distillation or production; or**

100 **(k) Biodiesel production.**

101

Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

(24) **"Qualified renewable energy sources" shall not be construed to include ethanol distillation or production or biodiesel production; however, it shall include:**

(a) **Open-looped biomass;**

(b) **Close-looped biomass;**

(c) **Solar;**

(d) **Wind;**

(e) **Geothermal; and**

(f) **Hydropower;**

(25) **"Related company" means:**

(a) A corporation, partnership, trust, or association controlled by the qualified company;

(b) An individual, corporation, partnership, trust, or association in control of the qualified company; or

(c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, control of a corporation shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, control of a partnership or association shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, control of a trust shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(25)] (26) **"Related facility", a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;**

[(26)] (27) **"Related facility base employment", the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at all related facilities of the qualified company or a related company located in this state;**

[(27)] (28) **"Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the notice of intent, not including the payroll of the**

139 owners of the qualified company unless the qualified company is participating in an employee
140 stock ownership plan. For purposes of calculating the benefits under this program, the amount
141 of related facility base payroll shall increase each year based on an appropriate measure, as
142 determined by the department;

143 [(28)] (29) "Rural area", a county in Missouri with a population less than seventy-five
144 thousand or that does not contain an individual city with a population greater than fifty thousand
145 according to the most recent federal decennial census;

146 [(29)] (30) "Small and expanding business project", a qualified company that within two
147 years of the date of the approval creates a minimum of twenty new jobs if the project facility is
148 located in a rural area or a minimum of forty new jobs if the project facility is not located in a
149 rural area and creates fewer than one hundred new jobs regardless of the location of the project
150 facility;

151 [(30)] (31) "Tax credits", tax credits issued by the department to offset the state income
152 taxes imposed by chapters 143 and 148, RSMo, or which may be sold or refunded as provided
153 for in this program;

154 [(31)] (32) "Technology business project", a qualified company that within two years
155 of the date of the approval creates a minimum of ten new jobs involved in the operations of a
156 technology company as determined by a regulation promulgated by the department under the
157 provisions of section 620.1884 or classified by NAICS codes; **or which owns or leases a**
158 **facility which produces electricity derived from qualified renewable energy sources, or**
159 **produces fuel for the generation of electricity from qualified renewable energy sources, but**
160 **does not include any company that has received the alcohol mixture credit, alcohol credit,**
161 **or small ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the**
162 **previous tax year;** or which researches, develops, or manufactures power system technology
163 for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices;

164 [(32)] (33) "Withholding tax", the state tax imposed by sections 143.191 to 143.265,
165 RSMo. For purposes of this program, the withholding tax shall be computed using a schedule
166 as determined by the department based on average wages.

620.1881. 1. The department of economic development shall respond within thirty days
2 to a company who provides a notice of intent with either an approval or a rejection of the notice
3 of intent. The department shall give preference to qualified companies and projects targeted at
4 an area of the state which has recently been classified as a disaster area by the federal
5 government. Failure to respond on behalf of the department of economic development shall
6 result in the notice of intent being deemed an approval for the purposes of this section. A
7 qualified company who is provided an approval for a project shall be allowed a benefit as
8 provided in this program in the amount and duration provided in this section. A qualified
9 company may receive additional periods for subsequent new jobs at the same facility after the

10 full initial period if the minimum thresholds are met as set forth in sections 620.1875 to
11 620.1890. There is no limit on the number of periods a qualified company may participate in
12 the program, as long as the minimum thresholds are achieved and the qualified company
13 provides the department with the required reporting and is in proper compliance for this program
14 or other state programs. A qualified company may elect to file a notice of intent to start a new
15 project period concurrent with an existing project period if the minimum thresholds are achieved
16 and the qualified company provides the department with the required reporting and is in proper
17 compliance for this program and other state programs; however, the qualified company may not
18 receive any further benefit under the original approval for jobs created after the date of the new
19 notice of intent, and any jobs created before the new notice of intent may not be included as new
20 jobs for the purpose of benefit calculation in relation to the new approval.

21 2. Notwithstanding any provision of law to the contrary, any qualified company that is
22 awarded benefits under this program may not simultaneously receive tax credits or exemptions
23 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections
24 135.900 to 135.906, RSMo, at the same project facility. The benefits available to the company
25 under any other state programs for which the company is eligible and which utilize withholding
26 tax from the new jobs of the company must first be credited to the other state program before
27 the withholding retention level applicable under the Missouri quality jobs act will begin to
28 accrue. These other state programs include, but are not limited to, the new jobs training program
29 under sections 178.892 to 178.896, RSMo, the job retention program under sections 178.760 to
30 178.764, RSMo, the real property tax increment allocation redevelopment act, sections 99.800
31 to 99.865, RSMo, or the Missouri downtown and rural economic stimulus act under sections
32 99.915 to 99.980, RSMo. If any qualified company also participates in the new jobs training
33 program in sections 178.892 to 178.896, RSMo, the company shall retain no withholding tax,
34 but the department shall issue a refundable tax credit for the full amount of benefit allowed
35 under this subdivision. The calendar year annual maximum amount of tax credits which may
36 be issued to a qualifying company that also participates in the new job training program shall
37 be increased by an amount equivalent to the withholding tax retained by that company under the
38 new jobs training program. However, if the combined benefits of the quality jobs program and
39 the new jobs training program exceed the projected state benefit of the project, as determined
40 by the department of economic development through a cost-benefit analysis, the increase in the
41 maximum tax credits shall be limited to the amount that would not cause the combined benefits
42 to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program
43 who knowingly hires individuals who are not allowed to work legally in the United States shall
44 immediately forfeit such benefits and shall repay the state an amount equal to any state tax
45 credits already redeemed and any withholding taxes already retained.

46 3. The types of projects and the amount of benefits to be provided are:

47 (1) Small and expanding business projects: in exchange for the consideration provided
48 by the new tax revenues and other economic stimuli that will be generated by the new jobs
49 created by the program, a qualified company may retain an amount equal to the withholding tax
50 as calculated under subdivision (32) of section 620.1878 from the new jobs that would otherwise
51 be withheld and remitted by the qualified company under the provisions of sections 143.191 to
52 143.265, RSMo, for a period of three years from the date the required number of new jobs were
53 created if the average wage of the new payroll equals or exceeds the county average wage or for
54 a period of five years from the date the required number of new jobs were created if the average
55 wage of the new payroll equals or exceeds one hundred twenty percent of the county average
56 wage;

57 (2) Technology business projects: in exchange for the consideration provided by the
58 new tax revenues and other economic stimuli that will be generated by the new jobs created by
59 the program, a qualified company may retain an amount equal to a maximum of five percent of
60 new payroll for a period of five years from the date the required number of jobs were created
61 from the withholding tax of the new jobs that would otherwise be withheld and remitted by the
62 qualified company under the provisions of sections 143.191 to 143.265, RSMo, if the average
63 wage of the new payroll equals or exceeds the county average wage. An additional one-half
64 percent of new payroll may be added to the five percent maximum if the average wage of the
65 new payroll in any year exceeds one hundred twenty percent of the county average wage in the
66 county in which the project facility is located, plus an additional one-half percent of new payroll
67 may be added if the average wage of the new payroll in any year exceeds one hundred forty
68 percent of the average wage in the county in which the project facility is located. The
69 department shall issue a refundable tax credit for any difference between the amount of benefit
70 allowed under this subdivision and the amount of withholding tax retained by the company, in
71 the event the withholding tax is not sufficient to provide the entire amount of benefit due to the
72 qualified company under this subdivision. The calendar year annual maximum amount of tax
73 credits that may be issued to any qualified company for a project or combination of projects is
74 five hundred thousand dollars;

75 (3) High impact projects: in exchange for the consideration provided by the new tax
76 revenues and other economic stimuli that will be generated by the new jobs created by the
77 program, a qualified company may retain an amount from the withholding tax of the new jobs
78 that would otherwise be withheld and remitted by the qualified company under the provisions
79 of sections 143.191 to 143.265, RSMo, equal to three percent of new payroll for a period of five
80 years from the date the required number of jobs were created if the average wage of the new
81 payroll equals or exceeds the county average wage of the county in which the project facility is
82 located. The percentage of payroll allowed under this subdivision shall be three and one-half
83 percent of new payroll if the average wage of the new payroll in any year exceeds one hundred

84 twenty percent of the county average wage in the county in which the project facility is located.
85 The percentage of payroll allowed under this subdivision shall be four percent of new payroll
86 if the average wage of the new payroll in any year exceeds one hundred forty percent of the
87 county average wage in the county in which the project facility is located. An additional one
88 percent of new payroll may be added to these percentages if local incentives equal between ten
89 percent and twenty-four percent of the new direct local revenue; an additional two percent of
90 new payroll is added to these percentages if the local incentives equal between twenty-five
91 percent and forty-nine percent of the new direct local revenue; or an additional three percent of
92 payroll is added to these percentages if the local incentives equal fifty percent or more of the
93 new direct local revenue. The department shall issue a refundable tax credit for any difference
94 between the amount of benefit allowed under this subdivision and the amount of withholding
95 tax retained by the company, in the event the withholding tax is not sufficient to provide the
96 entire amount of benefit due to the qualified company under this subdivision. The calendar year
97 annual maximum amount of tax credits that may be issued to any qualified company for a project
98 or combination of projects is seven hundred fifty thousand dollars. The calendar year annual
99 maximum amount of tax credit that may be issued to any qualified company for a project or
100 combination of projects may be increased up to one million dollars if the number of new jobs
101 will exceed five hundred and if such action is proposed by the department and approved by the
102 quality jobs advisory task force established in section 620.1887; provided, however, until such
103 time as the initial at-large members of the quality jobs advisory task force are appointed, this
104 determination shall be made by the director of the department of economic development. In
105 considering such a request, the task force shall rely on economic modeling and other information
106 supplied by the department when requesting the increased limit on behalf of the project;

107 (4) Job retention projects: a qualified company may receive a tax credit for the retention
108 of jobs in this state, provided the qualified company and the project meets all of the following
109 conditions:

110 (a) For each of the twenty-four months preceding the year in which application for the
111 program is made the qualified company must have maintained at least one thousand full-time
112 employees at the employer's site in the state at which the jobs are based, and the average wage
113 of such employees must meet or exceed the county average wage;

114 (b) The qualified company retained at the project facility the level of full-time
115 employees that existed in the taxable year immediately preceding the year in which application
116 for the program is made;

117 (c) The qualified company is considered to have a significant statewide effect on the
118 economy, and has been determined to represent a substantial risk of relocation from the state by
119 the quality jobs advisory task force established in section 620.1887; provided, however, until

such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development;

(d) The qualified company in the project facility will cause to be invested a minimum of seventy million dollars in new investment prior to the end of two years or will cause to be invested a minimum of thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at least seventy million dollars during each of the years for which a credit is claimed; and

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period.

The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, [2007] **2013**;

(5) Small business job retention and flood survivor relief: a qualified company may receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period, provided that:

(a) The qualified company did not receive any state or federal benefits, incentives, or tax relief or abatement in locating its facility in a flood plain;

(b) The qualified company and related companies have fewer than one hundred employees at the time application for the program is made;

(c) The average wage of the qualified company's and related companies' employees must meet or exceed the county average wage;

(d) All of the qualified company's and related companies' facilities are located in this state;

(e) The facilities at the primary business site in this state have been directly damaged by floodwater rising above the level of a five hundred year flood at least two years, but fewer than eight years, prior to the time application is made;

(f) The qualified company made significant efforts to protect the facilities prior to any impending danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year-round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time.

The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number

193 of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may
194 be issued upon satisfaction by the department that the qualified company has exceeded the
195 county average wage and the minimum number of new jobs. In such annual report, if the
196 average wage is below the county average wage, the qualified company has not maintained the
197 employee insurance as required, or if the number of new jobs is below the minimum, the
198 qualified company shall not receive tax credits or retain the withholding tax for the balance of
199 the benefit period. In the case of a qualified company that initially filed a notice of intent and
200 received an approval from the department for high impact benefits and the minimum number of
201 new jobs in an annual report is below the minimum for high impact projects, the company shall
202 not receive tax credits for the balance of the benefit period but may continue to retain the
203 withholding taxes if it otherwise meets the requirements of a small and expanding business
204 under this program.

205 5. [The maximum calendar year annual tax credits issued for the entire program shall
206 not exceed forty million dollars.] Notwithstanding any provision of law to the contrary, the
207 maximum annual tax credits authorized under section 135.535, RSMo, are hereby reduced from
208 ten million dollars to eight million dollars, with the balance of two million dollars transferred
209 to this program. There shall be no limit on the amount of withholding taxes that may be retained
210 by approved companies under this program.

211 6. The department shall allocate the annual tax credits based on the date of the approval,
212 reserving such tax credits based on the department's best estimate of new jobs and new payroll
213 of the project, and the other factors in the determination of benefits of this program. However,
214 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.
215 The allocation of tax credits for the period assigned to a project shall expire if, within two years
216 from the date of commencement of operations, or approval if applicable, the minimum
217 thresholds have not been achieved. The qualified company may retain authorized amounts from
218 the withholding tax under this section once the minimum new jobs thresholds are met for the
219 duration of the project period. No benefits shall be provided under this program until the
220 qualified company meets the minimum new jobs thresholds. In the event the qualified company
221 does not meet the minimum new job threshold, the qualified company may submit a new notice
222 of intent or the department may provide a new approval for a new project of the qualified
223 company at the project facility or other facilities.

224 7. For a qualified company with flow-through tax treatment to its members, partners, or
225 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion
226 to their share of ownership on the last day of the qualified company's tax period.

227 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,
228 RSMo, and may not be carried forward but shall be claimed within one year of the close of the

229 taxable year for which they were issued, except as provided under subdivision (4) of subsection
230 3 of this section.

231 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing
232 a notarized endorsement thereof with the department that names the transferee, the amount of
233 tax credit transferred, and the value received for the credit, as well as any other information
234 reasonably requested by the department.

235 10. Prior to the issuance of tax credits, the department shall verify through the
236 department of revenue, or any other state department, that the tax credit applicant does not owe
237 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
238 fees or assessments levied by any state department and through the department of insurance that
239 the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect
240 the authorization of the application for such tax credits, except that at issuance credits shall be
241 first applied to the delinquency and any amount issued shall be reduced by the applicant's tax
242 delinquency. If the department of revenue or the department of insurance, or any other state
243 department, concludes that a taxpayer is delinquent after June fifteenth but before July first of
244 any year and the application of tax credits to such delinquency causes a tax deficiency on behalf
245 of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency
246 in which interest, penalties, and additions to tax shall be tolled. After applying all available
247 credits toward a tax delinquency, the administering agency shall notify the appropriate
248 department and that department shall update the amount of outstanding delinquent tax owed by
249 the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax
250 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions
251 of other provisions of law.

252 11. Except as provided under subdivision (4) of subsection 3 of this section, the director
253 of revenue shall issue a refund to the qualified company to the extent that the amount of credits
254 allowed in this section exceeds the amount of the qualified company's income tax.

255 12. An employee of a qualified company will receive full credit for the amount of tax
256 withheld as provided in section 143.211, RSMo.

257 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any
258 person or circumstance is held invalid, the invalidity shall not affect other provisions or
259 application of these sections which can be given effect without the invalid provisions or
260 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared
261 severable.

Section B. Because of the need to continue Missouri's positive economic growth, the
2 repeal and reenactment of section 620.495 of sections A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and the repeal and reenactment

5 of section 620.495 of section A of this act shall be in full force and effect upon its passage and
6 approval.

✓

Unofficial

Bill

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